IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-24014-2015
Date of Decision: 16.11.2015

Globe Automobiles Pvt. Ltd.

---Petitioner

Vs.

State of Haryana and another

-------Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

--

Present: Mr. Ajay Pal Singh, Advocate
for the petitioner.
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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition for quashing order/notice dated 28.07.2015 passed by the Collector, Kaithal whereby tentatively an amount of Rs. 47,704/- has been assessed as being deficit stamp duty which the petitioner is liable to pay.

Vide the aforesaid notice, the petitioner has been asked to file his objections before the Collector by 20.08.2015. The petitioner has accordingly filed his objections.

The contention of the learned counsel for the petitioner is that though the order Annexure P-3 purports to be a notice and is not final determination of deficiency in stamp duty but as the deficit stamp duty has been assessed by the Collector in the notice so the decision on the objections would be a mere formality.

Learned counsel for the petitioner states that in Section 47-A of the Indian Stamp Act, 1899 and the Haryana Stamp (Prevention of Undervaluation of

Instruments) Rules, 1978 a proper procedure is prescribed for proceedings with undervalued instruments. This procedure requires the Collector to serve on the person concerned a notice in Form 1, requiring him either to attend in person or through an authorized agent on a date and time to be specified therein and to produce or to cause to be produced any evidence on which such person or persons may rely in his support. The Collector, after taking such evidence as the person or persons may produce and after making such enquiry as he may deem proper shall determine the value of property or consideration as the case may be and assess the amount of deficit duty recoverable from the person concerned.

It is contended that this procedure has not been followed and without any opportunity of hearing and without any evidence as required under the Rules, the Collector has passed the impugned order/notice.

Learned counsel relies on judgment of Hon'ble the Supreme Court passed in **Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others (1998) 8 SCC 1** to contend that in case where the writ petition has been filed for the enforcement of any of the Fundamental rights or where there has been a violation of the principles of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged, the existence of alternative remedy is not a bar to entertain the writ petition.

Having heard learned counsel for the petitioner, I am not inclined to agree with him. Firstly, the petition is premature. The impugned order is not a final determination of deficit stamp duty and it is tentative determination against which the petitioner has been asked to submit his objections which he has done. Learned counsel for the petitioner candidly admits that the case is fixed before the Collector for 17.11.2015. As the Collector has not yet passed the final order, it is not appropriate to interfere at this stage. The petitioner has already submitted his objections, which are expected to be taken note of by the Collector before passing the final order. Further, against the determination by the Collector, the petitioner has remedy of an appeal before the Commissioner as per Section 47-A (4) of the Act.

The present case in my view is not a case where the writ petition can be entertained despite the existence of alternative remedy. Neither it is a case of violation of fundamental right nor of the violation of principles of natural justice nor are the proceedings before the Collector wholly without jurisdiction.

Dismissed.

(Harinder Singh Sidhu)
Judge

16.11.2015.
Atul