IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.8051 of 2015
Date of Decision: September 03, 2015

Shivalik Educational Society (Regd.)

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE JASPAL SINGH.

Present: Mr.Rajiv Kataria, Advocate, for the petitioner.

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1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

The petitioner was the highest bidder in an open auction held by GMADA for allotment of a school site in Sector-78, SAS Nagar Mohali and it offered a sum of Rs.16,15,25,000/- against the reserved price of Rs.15,92,36,000/-. The petitioner is said to have deposited the initial amount as per the terms and conditions of auction. GMADA has further raised a demand of Rs.1,65,41,798/- from the petitioner under Section 43 CA of the Income Tax Act as the bid given by the petitioner for the subject site was statedly less than the Collector's rate.

The petitioner contested the above-stated claim on the plea that it has been granted 'exemption' from income tax liability under Section 10 of the Income Tax Act. GMADA has declined to entertain such a plea, hence this writ petition.

We have heard learned counsel for the petitioner at some considerable length and are of the view that the grievance raised by the petitioner is wholly misconceived and misdirected. Firstly, the GMADA in its auction notice expressly stipulated vide clause 1 (c) that "in case bid price given by the bidder is above reserved price of GMADA but less than the Collector rate than the bidder shall be liable to pay income tax @ 33.99% on the difference of Collector price and bid price...." Secondly, the petitioner participated in the auction with open eyes and it being fully aware of the terms and conditions cannot wriggle out at this stage. Thirdly, the exemption claimed by the petitioner is a matter between the Income Tax authorities and the petitioner. If the petitioner is indeed entitled to any such exemption, it can always plead and prove the same before the Income Tax authorities. Needless to say that in the event of acceptance of such plea, the Income Tax authorities would grant the refund.

The contention that GMADA is not the Competent Authority to recover Income Tax is also misconceived. It is not the question of competence, rather a liability under the Statute.

For the reasons afore-stated, we do not find any merit in this writ petition.

Dismissed.

[SURYA KANT]
JUDGE

September 03, 2015 [JASPAL SINGH]
mohinder JUDGE