IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 55 OF 2016

Abhijit K. Avarsekar .. Petitioner
vs.
State of Maharashtra & Ors. .. Respondents

Mr. Ashish Kamat with Ms Chinmayee Pendse, Ms Aditi Maheshwari i/b. Vidhi Partners for Petitioner.
Mr. P. G. Lad – AGP for Respondent Nos. 1 to 3.

CORAM : M. S. SONAK, J.
DATE : 02 FEBRUARY 2016

P.C :

1] The challenge in this petition is to the notice issued under Section 267 of the Maharashtra Land Revenue Code, 1966 (Code) which requires the petitioner to pay amount of Rs.50,06,022/- as arrears of land revenue.

2] Section 257 of the Code, reads thus :

"257. Power of State Government and of certain revenue and survey officers to call for and examine records and proceedings of subordinate officers.
(1) The State Government and any Revenue or Survey Officer, not inferior in rank to an Assistant or Deputy Collector, or a Superintendent of Land Records, in their respective departments, may call for and examine the record of any inquiry or the proceedings of any subordinate Revenue or Survey Officer, for the purpose of satisfying itself or himself, as the case may be, as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer.

(2) A Tahsildar, a Naib-Tahsildar, and a District Inspector of Land Records may in the same manner call for and examine the proceedings of any officer subordinate to them in any matter in which neither a formal nor a summary inquiry has been held.

(3) If in any case, it shall appear to the State Government, or any officer referred to in sub-section (1) or sub-section (2) that any decision or order or proceedings so called for should be modified, annulled or reversed, it or he may pass such order thereon as it or he deems fit.

Provided that, the State Government or such officer shall not vary or reverse any order affecting any question of right between private persons without having given to the parties interested notice to appear and to be heard in support of such order.

Provided further that, an Assistant of Deputy Collector shall not himself pass such order in any matter in which a formal inquiry has been held, but shall submit the record with his opinion to the Collector, who shall pall such order thereon as he may deem fit."

3] Considering the amplitude and the scope of the provisions contained in Section 257 (1) of the Code, it is obvious that the petitioner has an alternate, efficacious and statutory remedy to challenge the impugned notice dated 15 October 2015. There is no necessity to entertain the present petition.

4] Mr. Kamat, the learned counsel for the petitioner has no doubt contended that the remedy of revision under the Code is not a remedy of right and therefore, will not constitute any alternate or efficacious remedy. He also contended that the impugned notice in the present case is *ex facie* without jurisdiction, in as much as a

Director of a Company is sought to be saddled with liabilities, which the Company may have incurred. He pointed out that even the Company has instituted an appeal before the Gujarat Value Added Tax Tribunal at Ahmedabad and secured interim relief on 27 January 2016, subject to payment of some amount. For all these reasons, Mr. Kamat submitted that the petitioner ought not to be relegated to the remedy under Section 257 of the Code.

5] If the circumstances are considered, then, this is not a case where the extra ordinary jurisdiction of this Court is required to be exercised. The contentions raised by the petitioner can very well be raised and considered by the revisional authority in the exercise of revisional jurisdiction. Ultimately, this is a case where certain amounts are demanded towards arrears of value added tax. The petitioner, is not ready to deposit any amounts in this Court, as and by way of security, in case the demand has to be stayed. Therefore, no extra ordinary circumstances exist in this matter to deviate from the rule, though, it may be a rule of self discipline, that petition be not entertained when equally efficacious, alternate and statutory remedy is available to the party.

6] This petition is therefore dismissed. The petitioner shall however have the liberty to invoke the revisional jurisdiction under

Section 257 of the Code. In case, the petitioner does invoke such jurisdiction, revisional authority to decide the revision appliation on its own merits and in accordance with law. In case, the petitioner institutes a revision application within two weeks from today, the revisional authority to take up and make orders upon application for any interim relief, which the petitioner may take out, within a period of two weeks from the date of such institution.

7] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

Chandka