**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**CWP No. 19648 of 2013 (O&M)**

Date of decision : 10.2.2016

M/s Bestech India Private Limited .. Petitioner

versus

The State of Haryana and others .. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal**

Present: Mr. Chetan Mittal, Senior Advocate with
Mr. Harsh Bunger, Advocate, for the petitioner (s)
in CWP Nos. 25321, 25329 and 25339 of 2013, and
Mr. Aashish Chopra, Advocate, for the petitioner (s)
in CWP Nos. 19648 and 22383 of 2013,
Mr. Shekhar Verma, Advocate, for the petitioner (s) in
CWP No. 14938 and 15262 of 2014.
Mr. Lokesh Sinhal, Additional Advocate General, Haryana
Mr. Rahul Sharma, Advocate, for respondent no.4
in CWP No. 19648/2013
Mr. Rahul Garg, Advocate, for respondent nos. 4 and 5
in CWP No. 22383/2013

**Rajesh Bindal, J.**

This order will dispose of CWP Nos. 19648, 22383, 25321, 25329, 25339 of 2013, 14938 and 15262 of 2014, as common questions of law and facts are involved therein.

Challenge in all the writ petitions is to the orders passed by the Collector in pursuance to the proceedings initiated under Section 33 of the Indian Stamp Act, 1899 (for short, 'the Act'), raising demand of stamp duty opining that the collaboration agreement, which was entered into between the owners of the land and the builders, in fact, was falling under Entry 23 column, hence, stamp duty was payable.

Learned counsel for the petitioners while placing reliance upon a judgment of this Court in *Iqbal Singh and others vs State of Haryana and others* 2011 (3) R. C. R. (Civil) 365, submitted that the proceedings initiated against the petitioners under Section 33 of the Act were totally without jurisdiction as the document in question was not produced before any authority in evidence. Even the notice and the orders suggested that the action was initiated on account of some audit objection, hence, order passed by the Collector deserves to be set aside.

On the other hand, learned counsel for the State submitted that no doubt, the proceedings could not be initiated under Section 33 of the Act, however, Section 47-A of the Act gives ample powers to the Collector to initiate action for determination of correct duty payable under the Act. The present proceedings may be treated as initiated under that provisions.

After hearing learned counsel for the parties, in my opinion, the present writ petitions deserves to be allowed. The order passed by the authority has to be justified on the reasons mentioned therein. The same can not be supplemented in reply to the petition filed challenging the order. The notice issued for initiating the proceedings and the order passed by the Collector clearly suggests that the action was taken under Section 33 of the Act. Once it is conceded that the action could not be initiated against the petitioners under Section 33 of the Act, the only possible conclusion is that the impugned order passed by the Collector deserves to be set aside.

Ordered accordingly.

As far as the contention raised by learned counsel for the State regarding application of Section 47-A of the Act is concerned, this Court is not opining on the justification of the proceedings under Section 47-A of the Act. The State, if has power to take action under any provisions of the statute, may be at liberty to initiate proceedings. In case the State initiates any other proceedings against the petitioners, they shall be at liberty to raise all the objections available to them in law.

10.2.2016 (Rajesh Bindal)
vs Judge