IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.21989 of 2014
Date of decision:03.08.2017

Heera Lal ... Petitioner

Vs.

Municipal Corporation and others ... Respondents

CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. L.M. Gulati, Advocate
for the petitioner.

Mr. Sanjeev Soni, Advocate
for the respondents.

AMIT RAWAL J.

The petitioner has knocked the door of this Court by challenging the order dated 29.04.2014 (Annexure P-16) rendered by the Appellate Authority, demand notice (Annexure P-11) and impugned auction notice dated 02.03.2012 (Annexure P-13).

2. Mr. L.M.Gulati, learned counsel appearing on behalf of the petitioner submitted that the petitioner, vide rent note dated 05.05.1987 is a tenant of the building No.A-3, Lawrence Road, opposite Pizza Hut, Amritsar, at a monthly rent of ₹600/-, under one Sh. Chaman Lal. He has regularly been paying the rent against the valid receipts and also reflected in the Income Tax Returns.

3. The petitioner, being sole proprietor, had been carrying the business under the name and style of M/s National Star. The landlord did not inform the petitioner that the property is liable to house tax. There are other shops on the first, second and third floor with other tenants. Since 1987, no addition and alteration were ever made in the premises. However, in the year 2008, the petitioner also stated dealing in Cantabile Readymade Garments/cloths. He received a communication dated 20.08.2008 (Annexure P-2), from the office of Superintendent, House Tax, Municipal Corporation, Amritsar, calling upon to supply the certified copy of the rent deed/lease deed within a period of 7 days, failing which contemplated action under Sections 94 and 108(3) of Punjab Municipal Corporation Act, 1976 (hereinafter called "the Act"), would be taken.

4. The petitioner responded to the aforementioned letter by submitting a reply dated 11.09.2008 (Annexure P-3) stating that premises had been taken on rent @ ₹600/- per month and had enclosed a copy of the lease agreement. It was further stated that no new tenancy in the name of Cantabile has been created nor there is any franchise created by Cantabile as stated by you. Vide Annexure P-4, dated 22.01.2009, the Superintendent required The Manager, M/s Kapish Products Ltd. Delhi to supply a copy of rent deed/franchise with branch of Cantabile (Italy) within 7 days which was allegedly executed by the petitioner in respect of area measuring 450 sq.ft at A-3 Lawrence Road (Show Room), Amritsar. The owner of the building during the period 2009-10 had deposited the house tax as was being deposited earlier. Thereafter, the owner received a notice dated

12.10.209 calling upon him to pay the house tax amounting to ₹4583/- for the assessment year 2009-10 which was cleared. However, inspite of the same a notice was issued to the petitioner for assessment of house tax. The petitioner raised the objection to the assessment and received a notice of hearing from the office of Superintendent, vide Annexure P-7. A copy of the written objections is at Annexure P-8. Vide impugned bill dated 25.01.2010, the petitioner was called upon to pay the gross amount of tax of ₹61,560/- by 07.02.2010 (Annexure P-11).

5. He further submitted that the amount of tax, as demanded vide Annexure P-5, was paid by the owner for the assessment year 2009-10. Immediately thereafter, the petitioner applied for copy of assessment order dated 29.12.2009, vide Annexure P-12, for the purpose of availing the statutory remedy of appeal but despite a lapse of 04 months, copy of the assessment order was not supplied which necessitated the petitioner to send a telegram dated 08.09.2010. Instead of supplying the copy, the respondents caused a publication in the newspaper "Dainik Bhaskar on 02.03.2012 putting the property for auction purportedly showing the outstanding dues of ₹1,34,934/- .

6. The petitioner approached this Court, vide CWP No.4791 of 2012 which was disposed of by this Court vide order dated 15.03.2012 with liberty to avail alternative remedy by way of appeal.

7. The petitioner, vide Annexure P-15 challenged the impugned auction notice and illegal demand by filing an appeal before the Commissioner, Jalandhar Division, Jalandhar. The said appeal, vide order

dated 29.04.2014 (Annexure P-16) has, erroneously, been dismissed without assigning any reasons, much less cogent reasons. None of the grounds taken in the grounds of appeal had been addressed/adverted to and the order also reveals that record of the Municipal Corporation was not summoned. It was argued that the quasi-judicial authorities are supposed to pass the reasoned orders and in its absence the same are unsustainable. It was, thus claimed that the impugned order be set aside.

8. Learned counsel for the respondents submitted that there is no illegality and perversity in the order under challenge. The petitioner has failed to pay the outstanding amount. In order to recover the outstanding dues, the Municipal Corporation was constrained to cause auction notice. Copy of the assessment order has been supplied to the petitioner and thus, urges this Court for dismissal of the writ petition.

9. We have heard learned counsel for the parties and appraised the paper book.

10. For the sake of brevity, operative part of the order rendered by the Appellate Authority reads as under:-

> *"4. I have considered the submissions made by the appellant and have also perused the record of the respondents received in this Court. The property in dispute, was assessed to house-tax for the year 2009-10. Notices were sent to the appellant and owner Shri Chaman Lal. There are reports on the file that those notices were refused to be received. It is thus clear that the appellant or owner were not cooperating with the*

respondent in the house-tax proceedings. Therefore, the respondent created a demand of ₹1,31,934/- vide Bill dated 22.11.2011 at page 71 of the file. The appellant is quoting the demand of house tax at ₹1,34,934/- which does not find confirmation from the record. The appellant has not brought on file copies of the notices/relevant papers to show that the demand was at ₹1,34,934/-. Consequently, the appeal has no merits and stands dismissed.

Announced. *Sd/-*
(R.Venkat Ratnam, IAS)
Commissioner, Jalandhar Division"

11. From the perusal of the operative part of the order extracted above, we find that the Commissioner, Jalandhar Division has not adverted to the issue raised in the grounds of appeal. No reasons, much less, cogent reasons have been assigned while adjudicating the appeal. The order has been passed in a mechanical manner. The quasi-judicial authorities are legitimately required to assign reasons by objectively dealing with all the issues raised by the appellant. The impugned order having failed to adhere to the essentials of a speaking order, the order dated 29.04.2014, (Annexure P-16) is legally untenable and the appellate authority is required to re-visit the issue in accordance with law.

12. Resultantly, the impugned order dated 29.04.2014 (Annexure P-16) is hereby set aside and the Commissioner, Jalandhar Division is directed to decide the matter afresh by passing a speaking and reasoned order in accordance with law after affording the opportunity of

hearing to the parties after summoning and examining the record.

13. The parties shall appear before the Commissioner, Jalandhar Division on 03.10.2017 for further proceedings.

14. Accordingly, the writ petition stands disposed of.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

August 03, 2017
savita

Whether Speaking/Reasoned Yes/No

Whether Reportable Yes/No