Sr.No.112

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 29022 of 2017(O&M)
Date of Decision: 21.12.2017

Shalimar Estate Pvt. Ltd. .....Petitioner

VS.

State of Haryana and others ....Respondents

CORAM HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present:- Mr.Puneet Bali, Sr. Advocate
With Mr. Vibhav Jain, Advocate for the petitioner.

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MAHESH GROVER, J (ORAL)

The petitioner has impugned Annexure P30 raising a demand of Rs.4,26,25,581/- on the ground that the assessment qua the Property Tax and Fire Tax are unsustainable as the respondents have not calculated the carpet area in accordance with the notification and resultantly an oppressive demand has been raised upon him without duly considering his pleas for a fair measurement of the carpet area which forms the basis of the assessment.

On due consideration of the pleas that have been raised before us, we are of the opinion that such issues cannot be settled in the exercise of our jurisdiction under Article 226 of the Constitution of India as they are totally dependant on the factual aspects. Besides, alternative remedy of appeal in terms of Sections 138 and 139 of Haryana Municipal Corporation Act, 1994 is available to the petitioner where the Appellate Authority indeed would be in a position to appreciate what the petitioner asserts before us.

Learned counsel for the petitioner contends that this remedy is virtually rendered illusory considering the 100% deposit as a pre requisite to the consideration in appeal and relies upon **Government of Andhra Pradesh and others v. P.Laxmi Devi (Smt.) (2008)4 SCC 720, Airport Authority of India v. Delhi Cantonment Board ILR (2011) IV Delhi 409, M.G.Abrol, Additional Collector of Customs, Bombay and another v. Shantilal Chhotelal and Co. and others (1966) 1 SCR 284 and Ganga Ram Hospital Trust v. Municipal Corporation Delhi 2001(60) DRJ 549 (DB).**

We have considered the argument raised by the learned counsel for the petitioner and are of the opinion that the issue raised before us can only be determined in appeal considering the dispute on facts but to enable the petitioner to do so we would direct that in case he deposits a sum of Rs.1 crore with the respondent Corporation, his appeal shall be considered on merits without insisting on the payment of the remaining amount assessed. We also direct that the appeal be disposed of as expeditiously as possible preferably within a period of six months. In case the amount of Rs.1 crore is deposited within a period of four weeks' and appeal filed the premises of the petitioner be not sealed / attached. It is made clear that in case the petitioner does not deposit this amount as directed above, the respondents would be at liberty to proceed against it in accordance with law.

Petition stands disposed of accordingly.

A copy of the order be supplied to the learned counsel for the petitioner under the signature of Bench Secretary.

(MAHESH GROVER)
JUDGE

(RAJ SHEKHAR ATTRI)
JUDGE

21.12.2017
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No