IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.501 OF 2009

Hindustan Coco Cola Bottling
South West Pvt. Ltd.,
Block No.F, Mezzanine Floor,
Nehru Place,
New Delhi - 110 019. ... Appellant/Respondent/Appellant

Vs.

1.Sub Registrar
Palliyadi.

2.The Special Deputy Collector
(Stamps)
Thirunalveli.

3.The Chief Revenue Controller and
Inspector General of Registration
Santhome High Road,
Chennai - 600 004. ... Respondents/Claimant/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, against the order of the Chief Controlling Revenue Authority and Inspector General of Registration dated 02.09.2008 passed in Proceedings No.28899/N5/08 under Section 47(A)(5) of the Indian Stamp Act read with Section 104 of C.P.C.

For Appellant : Ms.Janani Shankar
For Respondents: Ms.A.Madhumathi
Additional Government Pleader (CS)

J U D G M E N T

Aggrieved over the order rejecting the appeal made under Section 47-A(5) of the Indian Stamp Act, 1899, the appellant is before this Court.

2. The appellant is a Company incorporated under the Companies Act. The respondents had initiated proceedings under Section 47-A of the Indian Stamp Act for proper valuation of

the property. In that process, it appears that notice has been sent to an individual officer of the Company. However, the appellant has stated that no notice was served on them either in Form - I or Form - II and without notice, market value of the property cannot be determined. After getting the order copy, the appellant preferred an appeal before the third respondent. However, the third respondent rejected the appeal as it was not filed within the time stipulated under the Act and it is beyond the period of two years.

3. While the matter is taken up for hearing, learned counsel for the appellant would submit that the order passed by the third respondent is in utter violation of Rules 4 and 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 and that they have filed appeal within two months from the date of their knowledge and therefore, it should be entertained.

4. The learned Additional Government Pleader appearing for the respondents would submit that the Government, under G.O.Ms.No.189, Commercial Taxes and Registration (J1) Department, dated 29.12.2017, has announced Samadhan Scheme. As per the said Government Order, all the appeals, which are pending before this Court as on 08.06.2017, under Section 47-A (10) of the Indian Stamp Act are covered by the Scheme and the appellant may approach the third respondent to avail the benefits under Samadhan Scheme.

5. Heard the submissions made on either side and perused the materials available on record.

6. It is well settled that instead of harping on technicalities, it is better to do substantial justice on merits of the case. In the instant case, the appellant has come up with a plea that they have not at all given any notice mandated as per Rules 4 and 5 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. The order passed by the third respondent also does not disclose service of notice on them. In such circumstances, the first respondent shall be directed to consider the appeal on merits rather than rejecting it on technicalities.

7. In the light of the above, the Civil Miscellaneous Appeal is disposed of with the following directions:-

(i) the first respondent is directed to entertain the appeal made by the appellant and decide it on merits;

(ii) the appellant is entitled to raise all the grounds in the appeal;

(iii) the appellant is permitted to participate in the Samadhan Scheme announced by the Government in

G.O.Ms.No.189, Commercial Taxes and Registration (J1) Department, dated 29.12.2017 and settle the matter as he has already paid the stamp duty; and

(iv) if the matter is not settled, it is open to the parties to contest it on merits and pursue the avenues available in law.

No costs.

Sd/-
Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

TK
To
1.Sub Registrar
Palliyadi.

2.The Special Deputy Collector
(Stamps)
Thirunalveli.

3.The Chief Revenue Controller and
Inspector General of Registration
Santhome High Road,
Chennai - 600 004.

+ 1 cc to Government Pleader Sr.12567

C.M.A.NO.501 OF 2009

RR(CO)
EU(21/03/2018)