IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.772 of 2013

1. The Inspector General of Registration
   Chief Controlling Revenue Authority,
   Chennai - 600 028.
2. The District Revenue Officer (Stamps)
   Coimbatore
3. The Sub Registrar
   145/8, Kangeyam Road,
   Pallakkatupudur, Nallur - 641 606.
4. The Tahsildar, Tiruppur.

...Appellants/Respondents

Vs

1. Thiru Ramakant Padia

2. M/s. Euro India Exports (P) Ltd,
   Rep. by its Executive Director Ramkant Padia
   36, KPN Colony 4th Street,
   Thiruppur - 641 601.

...Respondents/Petitioner

Prayer:- Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order dated 05.09.2012 passed in W.P.No.7768 of 2012.

W.P.7768 of 2012:-

Filed under Article 226 of the Constitution of India Praying for the issuance of a writ of Mandamus to direct the 1st respondent to consider the representation of the petitioner dated 15.12.2011 in respect of the document Nos.2920/05 and 2921/05 and thereby enable the petitioners to avail Samadhan Scheme in G.O.Ms.No.132 dated 31.10.2011

For Appellant : Ms.A.SriJayanthi
Special Government Pleader

For Respondents : Mr.B.Ravi Raja

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The respondents presented a conditional Sale Deed before the Sub Registrar, Tirupur. The document was kept pending by the Registrar and thereafter, it was referred to the District Revenue Officer (Stamps), Coimbatore under Section 47 of the Indian Stamp Act.

2. Whileso, the Government of Tamil Nadu announced a samadhan scheme providing for stamp duty remission in respect of Instruments pending as on 31.07.2011 under Sections 47A(1), 47A (3), 47A(5), 47A(6), 47A(10) and 19B(4) of the Indian Stamp Act, 1899. Though the respondents submitted a representation to the concerned Registrar to give them the benefits of Samadhan scheme, there was no follow up action. The respondents therefore filed a Writ Petition.

3. The learned single Judge by following the earlier order dated 29 April 2005 in W.P.No.10229 of 2005 etc., allowed the Writ Petition and a Mandamus was issued to consider the representation submitted by the respondents in the light of the Samadhan scheme in G.O.132, Commercial Taxes and Registration (J1) Department dated 31 October 2011. The said order is under challenge at the instance of the State primarily on the ground that the respondents are not eligible to avail the Samadhan scheme, in view of the disposal of the proceedings under Section 47-A of the Stamp Act, even before introduction of the scheme.

3. The learned Special Government Pleader on instructions, submitted that the District Revenue Officer (Stamps), Coimbatore disposed of the proceedings under Section 47A of the Act as early as on 27 June 2008. According to the learned Special Government Pleader, the order was communicated to the respondents. Since there were no proceedings pending as on the date on which the Scheme came into operation, the learned single Judge was not correct in extending the benefits to the respondents.

4. The learned counsel for the respondents on the other hand submitted that the order dated 27 June 2008 was not communicated to the respondents and as such, they were not aware of the said order till the writ appeal was filed by the State. The learned counsel further contended that under similar circumstances an order was passed by the learned single Judge in W.P.No.10229 of 2005 etc., directing the State to extend the benefits to the petitioners therein. Since the respondents are similarly situated, the learned Judge was justified in extending the benefits of the scheme to the respondents.

5. The core question is as to whether the respondents were

eligible to the benefits of the Samadhan scheme introduced by the Government in G.O.Ms.No.132 Commercial Taxes and Registration (J1) Department dated 31 October 2011.

6. The scheme provides that the proceedings under Sub Section (1) of Section 47-A of the said Act must be pending before the competent authority as on 31 July 2017. In the subject case, the proceedings were disposed of on 27 June 2008 itself. There was no proceedings pending before the statutory authority as on the date when G.O.Ms.No.132 Commercial Taxes and Registration (J1) Department, was notified by the Government. The respondents are therefore not eligible to make an application under the Scheme.

7.The Government announced the beneficial scheme in the name and style of Samadhan scheme to get back the registered documents early and at the same time to earn revenue without delay. The scheme should be interpreted taking into account the conditions of eligibility. There is no question of extending the benefits to the persons who are not eligible under the scheme. We are of the view that the learned single Judge was not correct in allowing the Writ Petition.

8. In the result, the order dated 05 September 2012 is set aside. The Writ Petition in W.P.No.7768 of 2012 is dismissed.

9. In the upshot we allow the intra Court appeal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration
   Chief Controlling Revenue Authority,
   Chennai - 600 028.

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   Coimbatore.

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5. M/s. Euro India Exports (P) Ltd,
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   36, KPN Colony 4th Street,
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+1 CC TO MR.B.Raviraja, Advocate SR. No.15750
+1 CC TO The government Pleader SR.NO.16286

W.A.No.772 of 2013

KJ(CO)
RMP(02/04/2018)