Vinod Kumar
2018.03.13 10:39
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21446 of 2014
Date of decision:09.03.2018

M/s Delhi Punjab Goods Carries (Regd.) ...Petitioner

Versus

The State of Punjab and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Puneet Jindal, Senior Advocate, with
Mr. Amandeep Singh Meho, Advocate, for the petitioner.

Mr. H.S.Sitta, AAG, Punjab.

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Rakesh Kumar Jain, J.

The petitioner had purchased portion of House No.60, Kapurthala Road, Jalandhar City vide sale deed dated 25.10.2005 for a consideration of ₹11,00,000/- and paid ₹99,000/- towards stamp duty. The Sub Registrar, Jalandhar, vide his order dated 16.02.2006, determined the market value of the property in dispute to the tune of ₹30,60,000/- and found the deficient stamp duty of ₹1,76,000/-. The Sub Registrar referred the matter to the Collector, Jalandhar who, vide his order dated 07.05.2007, found the deficiency of stamp duty to the tune of ₹9,14,643/- along with interest of ₹1,64,635/-, calculated @ 12% per annum from the date of registration of the sale deed. Thus, total amount of ₹10,79,278/- was to be recovered from the petitioner as deficient stamp duty. The petitioner challenged the order dated 07.05.2007 by way of a statutory appeal before the Divisional Commissioner. However, the appeal was dismissed vide order dated 29.11.2007. The orders of the Collector and

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the Divisional Commissioner were challenged by the petitioner before this Court by way of CWP No.4153 of 2008. The said writ petition was allowed on 16.09.2008, impugned orders passed by the Collector and the Divisional Commissioner were set aside and the matter was remanded back to the Collector for fresh determination on the issue of deficiency of stamp duty.

After the remand, the Collector passed the order dated 23.11.2009 and ordered recovery of ₹10,70,278/- along with 12% interest of ₹3,23,783/-, total amounting to ₹14,03,061/-. The said order of the Collector was challenged by the petitioner in appeal, which was dismissed on 21.04.2010. Accordingly, the petitioner challenged both the orders of the Collector and the Divisional Commissioner by way of CWP No.14845 of 2010. The said writ petition was dismissed on 25.08.2010. The petitioner challenged the order of the Division Bench of this Court before the Supreme Court in SLP No.33670 of 2010, which was dismissed on 10.12.2010. The petitioner still filed an application for seeking review of the order dated 21.04.2010 passed by the Divisional Commissioner, in which it was stated that the petitioner is ready to pay the deficient stamp duty if the interest is waived off. The said review application was dismissed by the impugned order dated 31.03.2014 by observing that the petitioner did not make any prayer in the appeal preferred before the Divisional Commissioner when it was dismissed on 21.04.2010 for waiver of the interest nor had shown any intention to make payment of the deficient stamp duty/registration charges etc., therefore, the application did not find favour with the Divisional Commissioner.

At the time of issuance of notice of motion, this Court had passed the following order:-

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> "Learned counsel for the petitioner wants to restrict his argument only with reference to the interest that was not paid and that he will not make a dispute about principal amount levied.
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> Notice of motion for 15.01.2015.
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> Interim stay on condition that 50% of the interest component apart from the principal amount which he is not denying is deposited to the respondents within a period of 8 weeks failing which the stay granted shall stand vacated."

Thus, in view of the aforesaid, the argument advanced by learned counsel for the petitioner is only with regard to waiver of the interest component and it is submitted that the petitioner is not liable to pay the interest on the deficient stamp duty because it was pursuing its remedy before the Court of law.

On the other hand, counsel for the respondents has submitted that the petitioner was liable to pay the deficient stamp duty from the date it got the sale deed executed and registered and since the deficiency has been accepted by the petitioner, therefore, the deficient stamp duty has been sought to be recovered along with interest. In this regard, he has referred to the notification dated 01.07.2004 by which the Indian Stamp (Punjab Amendment) Act, 2003 has been notified, in which there is a provision to pay interest from the date of registration of the instrument of such property till the date of payment of the deficient amount of duty. It is further submitted that instead of paying the deficient stamp duty in time, the petitioner had been filing the petitions/appeals, one after the other, unsuccessfully and the matter came to an end when it lost before the Apex Court after its SLP was dismissed.

After hearing learned counsel for the parties, examining the available record and taking into consideration the aforesaid facts and

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circumstances, I am of the considered opinion that there is no merit in the present petition as the petitioner is liable to pay interest in terms of the provisions of the Indian Stamp (Punjab Amendment) Act, 2003, notified on 01.07.2004, to which there is no dispute and in which it has been categorically provided that:-

> "(ii) In sub section (3), for the words "if any, would be payable by the person liable to pay the duty", the following shall be substituted namely:-
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> > "If any, along with, interest at the rate of twelve per cent per annum on such deficient amount, would be payable by the person liable to pay the duty from the date of registration of the instrument relating to such property to the date of payment of deficient amount of the duty;
> >
> > Provided that a person shall also be liable to pay penal interest at the rate of three per cent per annum, if there was an intentional omission or lapse on his part in not setting forth the correct market value of such property."

The argument of the counsel for the petitioner that the petitioner would not be liable to pay interest for the period during which the matter was before the Court is of no avail to it because the petitioner has failed to cite any provision from the Indian Stamp Act, 1899 or from the aforesaid amendment that the component of interest would stop running during the pendency of proceedings before the Court of law. Otherwise, while dismissing the writ petition on 25.08.2010, the Division Bench of this Court has held that the Collector and the Divisional Commissioner have not committed any error in holding the property to be commercial on account of which the petitioner has been asked to pay the deficient stamp duty, which was affixed by it by treating the property as residential. The petitioner had, thus, withheld the amount of the stamp duty, which otherwise should have been appended by him on the

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sale deed and it has rightly been saddled with interest in terms of the provisions of the Indian Stamp (Punjab Amendment) Act, 2003 from the date when the stamp duty was found deficient till the date it has been paid.

No other argument has been raised.

In view of the above, I do not find any merit in the present petition and hence, the same is hereby dismissed, though without any order as to costs.

March 09, 2018 **(Rakesh Kumar Jain)**
vinod* **Judge**

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No