IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15169-2018
Date of decision: 11.4.2019

PGSD Senior Secondary School, Parav Gujran, Hisar
...Petitioner

Versus

Commissioner, Hisar and others
...Respondents

CWP-15171-2018
Date of decision: 11.4.2019

GNJN Goenka Girls High School
...Petitioner

Versus

Commissioner, Hisar and others
...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.KS Khaira, Advocate for
Mr.Vaibhav Jain, Advocate for the petitioner(s)

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JITENDRA CHAUHAN, J.

This judgment shall dispose of aforementioned two writ petitions, as common questions of law and facts are involved therein.

The facts are being taken from CWP-15169-2018, wherein the petitioner has sought setting aside of order dated 30.10.2014 (Annexure P-4) passed by respondent No.1, dismissing the appeal filed against the order dated 24.1.2013 (Annexure P-2) passed by respondent No.2, whereby the petitioner was directed to deposit the stamp duty of Rs.7,77,810/- in respect of registered sale deed No.3025 dated 21.7.2003 within a period of one month.

Learned counsel appearing on behalf of the petitioner(s) submits that no case for evasion of stamp duty in the registration of the alleged sale deeds is made out because the land in question is situated in village Mirzapur, Tehsil and District Hisar, where the market value of the property in question was not more than the amount mentioned in the sale deed i.e. Rs.9,92,062.50 paise. The adjacent land measuring 23 kanals 16 marlas falling in the same khasra number situated in village Mirzarpur was sold for a sum of Rs.4,15,978.75 paise. The Sub Registrar, did not raise any objection at the time of registration of the sale deed. The notice dated 18.10.2004 (Annexure P-1) was issued after a long delay of more than one year consequent to the objection raised by the Auditor General, Haryana, which cannot be made the basis for passing the impugned order. It is further asserted that no opportunity to lead evidence was given to the petitioner.

Heard.

The assertion of learned counsel for the petitioner that the action taken by the authorities is time barred is also misconstrued. The relevant provisions of Section 47-A of Indian Stamp (Haryana Amendment) Act, 1973, in support of his contention, read as under:-

> *"Haryana – After Section 47 of the principal Act, the following new section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of November, 1966, namely: -*
>
> *"47-A. Instruments under-valued how to be dealt with- (1) If the Registering Officer appointed under the Registration Act, 1908, while registering any instrument*

transferring any property, has reason to believe that the value of the property or the consideration, as the case may be, has not truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be and the proper duty payable thereon.

(2) On receipt of reference under sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, determine the value or consideration and the duty as aforesaid and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty.

(3) The Collector may suo motu, or on receipt of reference from the Inspector General of Registration or the Registrar of a district, in whose jurisdiction the property or any portion thereof which is the subject matter of the instrument is situate, appointed under the Registration Act, 1908 shall, within three years from the date of registration of any instrument, not already referred to him under sub-section (1), call for and examine the instrument, for the purpose of satisfying himself as to correctness of its value or consideration, as the case may be, and the duty payable thereon and if after such examination, he has reasons to believe that the value or consideration has not been truly set forth in the instrument, he may determine the value or consideration and the duty as aforesaid in accordance with the procedure provided for in sub-section (2), and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty:

Provided that the Collector shall, within a period of two years from the date of the commencement of the Indian Stamp (Haryana Amendment) Act, 1973, also be competent to act as aforesaid in respect of the instruments registered on or after the first day of November, 1966 and before the first day of October, 1970.

(4) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may, within thirty days from the date of the order, prefer an appeal before the District Judge and all such appeals shall be heard and disposed of in such manner as may be prescribed by rules may under this Act".

The land purchased by the petitioner is being used for Institutional purpose, whereas the adjacent land, as projected by the petitioner, was sold for agriculture purpose. The collector rates of theland for institutional purpose and agricultural purpose are not common. Moreso, the adjacent land was sold on 17.10.2002, whereas the petitioner(s) purchased the land on 21.7.2003 vide registered sale deed. It has also been recorded in the impugned order that if an objection is raised by the audit party, the sale deeds pertaining to agriculture land can also be revisited.

The language of sub-section (3) of Section 47A (ibid) makes out that the Registering Officer within three years from the date of registration of any instrument, not already referred to him under sub-section (1), call for and examine the instrument, for the purpose of satisfying himself as to correctness of its value or consideration. After such an exercise, if he has reasons to believe that the value or consideration has not been truly set forth in the instrument, he may determine the value or consideration and the duty as aforesaid in accordance with the procedure provided for in sub-section (2), and the deficient amount of duty shall be payable by the person liable to pay the duty. Thus, the petitioner has been rightly directed to make the deficiency of stamp duty good as per the collector rate prevailing in the area concerned. There is no flaw in the impugned notice and orders passed by the authorities below.

No ground is made out to interfere in the matter.

Consequently, both the writ petitions are dismissed.

A photocopy of this order be placed on the file(s) of the connected case(s).

11.4.2019 **[JITENDRA CHAUHAN]**
gsv **JUDGE**

Whether speaking / reasoned? Yes / No

Whether reportable? Yes / No