IN THE HIGH COURT OF PUNJAB AND HARYANA ATCHANDIGARH

CWP-3647-2021 (O&M)
Date of Decision: July 05, 2021

THE COMMISSIONER, MUNICIPAL CORPORATION, YAMUNA NAGAR, JAGADHRI, YAMUNA NAGAR

...... PETITIONER(s)

Versus

VARINDER KUMAR BAKSHI AND ANOTHER ..... RESPONDENT(s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Rajesh K. Sheoran, Advocate
for the petitioner.

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LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

CM-4406-2021

Learned counsel for the petitioner submits that due to an inadvertent mistake, list of events of another case had been appended with this writ petition, though facts of the writ petition have been correctly mentioned. It is, thus, prayed that correct list of events pertaining to the present writ petition be taken on record.

In view of the averments in the application and the arguments addressed, list of events as attached with this application duly supported by an affidavit of Arun Kumar, Executive Officer, Municipal Corporation, Yamuna Nagar, are taken on record, subject to just exceptions.

Application is disposed of.

Main Case:-

Challenge in this writ petition is to award dated 20.09.2019 (Annexure P3), passed by learned Permanent Lok Adalat (Public Utility Services) - respondent no.2.

Brief facts necessary for adjudication of the matter are that respondent no.1 filed an application (Annexure P1) under Section 22-C of the Legal Services Authority Act, 1987 with the averments that he has been wrongly made to deposit property tax in respect to his property detailed in the application, at new enhanced rate with heavy interest and penalty for the period 2010-2011 to 2016-2017. It is stated in the application that new enhanced rate has been charged despite government notification dated 11.02.2013, which permits the tax payer to deposit property tax at old rates from the period 2010-2011 till 11.02.2013. Property tax for the year 2010-2011, it is stated, stood deposited on 31.01.2012 but the tax was again collected by the authorities from petitioner at the new rates. Applicant further stated that he had been repeatedly requesting the officials for correct calculation of the tax due, but to no avail. Having no other option, applicant deposited property tax of Rs.96,049/- including penal interest of Rs.26,998/-, though under protest vide receipt dated 24.01.2017. Applicant, besides compensation, also claimed refund of the amount wrongly charged from him as well as a rebate of 25% on the basis of notification dated 08.02.2017.

The application was contested by the respondent (present petitioner). Written statement was filed. Effort was made for a settlement. However, when the matter could not be settled through counseling, learned Permanent Lok Adalat proceeded to decide the matter on merits. Evidence was led by the parties. Learned Permanent Lok Adalat observed that property tax for the year 2010-2011 was wrongly collected as it already stood deposited on 31.01.2012. Moreover, the officials, it is observed, wrongly collected interest at the new rate from the applicant. Furthermore, as correct calculation could not be given by the Department itself, it was held not entitled to claim penal interest. However, no rebate of 25% as claimed was allowed to the applicant. Refund of the excess amount along with Rs.20,000/- as compensation and Rs.5,500/- as litigation expenses was directed to be paid to the applicant vide the impugned award dated 20.09.2019 (Annexure P-3). Aggrieved therefrom, present writ petition was filed in November 2020.

Learned counsel for the petitioner submits that the learned Permanent Lok Adalat has no jurisdiction to decide the matter on merits and that the impugned award has been incorrectly passed without taking into consideration all the facts and circumstances of the case. Petitioner, it is submitted, was entitled to claim property tax at the new rate as well as collect penal interest, therefore, impugned award dated 20.09.2019 be set aside.

I have heard learned counsel for the petitioner and have gone through the file with his assistance.

In so far as jurisdiction of the learned Permanent Lok Adalat to decide the matter on merits is concerned, Legal Authorities Act, 1987 is clear on that aspect. Section 22-C of the Act specifically provides that "*where the parties fail to reach at an agreement under sub-Section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute*". Therefore, I do not find any merit in the said argument raised on behalf of the petitioner.

It is to be noted that notification dated 11.10.2013, where the assessee has an option to pay the tax from the year 2010-2011 to the date of notification at old rates till date of said notification, is not denied. It is further a matter of record that property tax for the year 2010-2011 stood deposited by the applicant/respondent no.1 vide receipt dated 31.01.2012. Learned Permanent Lok Adalat has made a specific reference to the documents on record while holding that it was the Department itself which never gave the correct calculation of property tax to the applicant. Reference has been made to documents Annexure A-5 and A6 i.e. details of property tax of petitioner for the year 2014-2015 issued in February 2015 and March 2015 wherein there is a difference or variation in the amount of property tax. It is further mentioned therein that arrears up to 31.03.2014 are not calculated or are under calculation. Admittedly, there was no explanation for the variation in the calculations made by the Department itself. It is, thus, rightly observed that up to the year 2015, the Department was not in a position to calculate the property tax due from the applicant, who was well within his right to seek amended bill of his tax liability. Therefore, direction to refund the interest/penal interest has been rightly issued.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned award dated 20.09.2019 (Annexure P-3), passed by the learned Permanent Lok Adalat, Yamuna Nagar, which calls for any interference by this Court.

No other argument has been addressed.

Writ petition is accordingly dismissed with no order as to cost.

05.07.2021 **(LISA GILL)**
Sunil **JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No