IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14343 of 2017 (O&M)
Date of Decision: 18.05.2022

Shree Krishna Enterprise ...Petitioner

Vs

State of Haryana and another ...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Vikas Bishnoi, Advocate
for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

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JAISHREE THAKUR J. (ORAL)

1. The instant petition has been filed seeking to challenge the order dated 13.02.2013 passed by respondent No.2-City Magistrate-cum-Collector, Hisar (hereinafter referred to as the Collector) whereby the petitioner has been directed to pay an additional amount of Rs.11,22,375/- in lieu of deficit stamp duty pertaining to sale deed registered on 24.04.2009 and the order dated 08.07.2014 passed by the Commissioner, Hisar Division, Hisar affirming the order of the Collector.

2. In brief, the facts are that the petitioner-Firm had purchased land measuring 48 kanals 0 marla from one Umed Singh son of Tirkha Ram vide registered sale deed No.531 dated 24.04.2009 for a consideration of Rs.1,20,00,000/-. The petitioner-Firm originally had five partners and the partnership deed was reduced into writing on 17.02.2009, which was registered by Registrar of Firms on 24.02.2009. Thereafter, vide partnership deed dated 24.04.2009, the number of partners were increased to 20. On 14.07.2009, the partnership firm was dissolved vide a dissolution deed and

Balwan Singh son of Manohar Lal became sole proprietor of the firm. On 16.07.2009, a partition deed was executed and the entire 48 kanals of land was distributed amongst 20 partners. Vide order dated 13.02.2013, the Collector directed the petitioner to deposit stamp duty of Rs.11,22,375/- within a month, failing which recovery will be effected under the Haryana Prevention of valuation of Instrument Rules, 1978. The petitioner preferred an appeal against the aforesaid order, which was dismissed vide order dated 08.07.2014.

3. Learned counsel appearing on behalf of the petitioner herein would contend that the impugned orders are unsustainable, as the Collector had passed the impugned order dated 13.02.2013 based on the objections raised by the Stamp Auditor, without affording any opportunity of hearing to the petitioner. It is argued that as per Rule 47-A(3) of the Stamp Act, the Collector can *suo motu* call for and examine any instrument and satisfy himself whether or not, instrument had been valued correctly within a period of three years from the date of the registration of any instrument whereas in the present case, the demand notice had been issued to the petitioner on 26.02.2013 and 22.03.2013 i.e. after a period of three years from the date of registration of the instrument. It is further argued that no valid service was effected upon the petitioner and therefore, the *ex parte* order passed by the Collector is liable to be set aside. It is also argued that the petitioner had approached the respondent No.1 by way of filing an appeal, which was also dismissed without taking into consideration the submissions made by the petitioner therein.

5. Per contra, learned counsel appearing on behalf of the respondent-State submitted that on the basis of report of Stamp Auditor, it had

been found that there was deficient stamp duty affixed on the sale deed that was executed on 24.04.2009 and pursuant to that, notice was issued to the petitioner herein to pay the additional amount of Rs.11,22,375/- towards deficient stamp duty and registration charges.

6. I have heard learned counsel for the parties and have perused the pleadings of the case as well as the case laws cited. The facts are not in dispute. The sale deed came to be registered on 24.04.2009 by the Sub Registrar, Hisar.

7. In the instant case, it is on the objection raised by Stamp Auditor that the Collector initiated *suo motu* proceedings under Section 47-A(3) of the Stamp Act to determine the proper stamp duty and issued notices of appearance to the petitioner on 03.03.2011, 24.04.2011 and 10.12.2012, however, when the petitioner failed to appear, *ex parte* impugned order was passed on 13.02.2013. The Collector can examine any instrument for the purpose of satisfying himself as to the correctness of the value of the property or of the consideration disclosed and the amount of duty with which it was chargeable within a period of three years from the date of registration of the instrument and that too, after giving the person concerned reasonable opportunity of being heard and after holding an enquiry in the manner provided under sub-section (2). In the case at hand, the sale deed was registered on 24.04.2009 whereas the notice qua deficit registration fee of Rs.11,22,375/- was issued on 13.02.2013 i.e. after a period of 3 years 10 months from the date of registration of the sale deed and therefore, the recovery proceedings are time barred. This Court in CWP No.21097 of 2019 titled as ***Jyoti Singla and others Vs. State of Punjab and others*** decided on 24.03.2022 has dealt with the similar issue where the Collector issued notice

to the petitioners therein to make good the deficiency of stamp duty and registration charges after lapse of a period of three years and therefore, set aside the orders passed by the Collector as well as the Appellate Authority by holding that the Collector can take cognizance of the matter within a period of three years from the date of registration of the instrument under Section 47-A (3) of the Indian Stamp Act and not beyond that.

8. Therefore, in view of the finding rendered above, the impugned orders dated 13.02.2013 and 08.07.2014 passed by respondents No.2 and 1 respectively are quashed and the writ petition stands allowed.

(JAISHREE THAKUR)
JUDGE

May 18, 2022
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No