216

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11061-2016 (O&M)
Date of Decision : 14.11.2023

Bharat Sanchar Nigam Limited ....Petitioner

VERSUS

Municipal Corporation Faridabad & Ors. ....Respondents

CORAM : HON'BLE MR. JUSTICE G. S. SANDHAWALIA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: None for the petitioner.

Ms. Nikita Goel, Advocate for respondent Nos. 1 and 2.

Ms. Mamta Singla Talwar, DAG Haryana
for respondent Nos. 3 and 4.

-.-

G. S. SANDHAWALIA, J. (Oral)

1. The challenge in the present petition is to the orders dated 10.04.2009 (Annexure P-2) passed by respondent No.1, 19.05.2009 (Annexure P-4) and 16.09.2009 (Annexure P-6) passed by respondent No.2, 03.02.2012 (Annexure P-8) passed by respondent No.4, 01.03.2016 (Annexure P-11) passed by respondent No.3.

2. Relief has primarily claimed on the ground that the petitioner being Central Government entity be exempted from levying of House Tax as provided under Section 92 of Haryana Municipal Corporation Act, 1994. Similarly, under Article 285 of the Constitution of India the property of the Union Government is exempted from all taxes imposed by the State or any authority within a State. The respondents by virtue of impugned order had created a demand of house tax on 10.04.2009 (Annexure P-2) On account

of non-payment, an order was passed on 16.09.2009 (Annexure P-5) wherein assessment was made at Rs.80,336/- per annum and resultantly attachment of the plot of the petitioner was done and the same was put to public auction. The petitioner had been relegated to remedy of an appeal as it approached this Court earlier in C.W.P.19714 of 2009 titled "Bharat Sanchar Nigam Ltd. Vs. Municipal Corporation, Ballabgarh".

3. The appeal was dismissed by the Commissioner Gurugram, on 03.02.2012 (Annexure P-8) primarily on the ground that the present petitioner has been registered under the Companies Act, 1956 and is not exempted from the House Tax. It has also been noticed that this Court in RSA-835-2007 titled "Bharat Sanchar Nigam Limited Vs. Pawan Kumar Gupta" had also decided the said issue and it has been held that BSNL is a company incorporated under Companies Act, 1956 and could not be defined as 'Central Government' under Section 3(8) of the General Clauses Act, 1897. The learned Single Judge came to the conclusion that BSNL being a company is a separate and distinct entity from the Central Government even though its functioning is controlled by the Central Government it could not acquire the status of Central Government by any stretch of imagination. It has been informed to us that Civil Appeal No.1085 of 2008 was preferred against the said judgment, wherein the said appeal was dismissed by observing that though share capital of the company owned in the name of the President is 100 per cent, but it cannot be construed as the Central

Government on account of the registration under Companies Act. Merely because, its administration is under the actual control of Central Government, it cannot be held to be so and a separate legal entity. It is in such circumstances, the claim of extended period of limitation had been denied. The relevant portion of the said judgment reads as under:-

> *“ Therefore, contention of the learned senior counsel on behalf of the appellant-company that the benefit accured in favour of the Central Government under Article 112 of the Limitation Act is attracted to the fact situation, has a far reaching consequences for the reason that, though the Company is a statutory authority, it is not synonymous with the Central Government. The expression ‘Central Government’ under the General Clauses Act is clearly defined, which relevant provision is extracted in the aforestated portion of this judgment. By a reading of the aforesated definition, at no stretch of imagination it can be construed that the appellant-company which is registered under the Companies Act, though share capital of the company owned in the name of the President is 100 per cent, it cannot be construed as the Central Government for the reason that the appellant-company by registration under the Companies Act, no doubt it is under the control of the Central Government as it is financed and its*

administration is under the absolute control of the Central Government, nonetheless, it shall not be construed as the Central Government for the reasons that the appellant-company is a separate legal entity."

4. Resultantly, keeping in view the above, specially the law settled by the Apex Court, we are of the considered opinion that a finding arrived by the Appellate Authority upholding the assessment of the amount of Rs.80,336/- is not liable to be entertained as set forth in the writ petiton. Resultantly, we do not find any ground to entertain the present writ petition, which is dismissed accordingly.

5. Pending applications, if any, also stand disposed off.

(G. S. SANDHAWALIA)
JUDGE

November 14, 2023
tripti

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No