2023:PHHC:109764

In the High Court for the States of Punjab and Haryana
At Chandigarh

CWP-18385-2023 (O&M)
Date of Decision:-23.8.2023

M/s Tenon Facility Management Indian Private Limited … Petitioner

Versus

State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gaurav Singh, Advocate and
Mr. Himanshu Chhabra, Advocate for the petitioner.

Mr. Samarth Sagar, Additional Advocate General, Haryana.

*****

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner assails order dated 3.8.2022 (Annexure P-5) passed by respondent No.3 – The District Collector, Gurugram Division, Gurugram, Haryana vide which the petitioner has been directed to deposit an amount of Rs.19,904/- as stamp duty on share certificate dated 18.2.2020 alongwith an amount of Rs.1,99,040/- as penalty equal to 10 times of the stamp duty. The petitioner also assails another identical order dated 3.8.2022 (Annexure P-6) passed by respondent No.3, in respect of another share certificate dated 18.2.2020 vide which he has been directed to deposit an amount of Rs.99,671/- as stamp duty alongwith an amount of Rs.9,98,710/- as penalty equal to 10 times of the stamp duty.

2. The petitioner – firm, which is a private limited company, had transferred shares on 18.2.2020 by way of two separate share certificates to ‘M/s Mortice Limited’.

3. As per the case of the petitioner, the petitioner/firm had submitted an application dated 18.2.2020 (Annexure P-4) to the Revenue Department on the same day with a request to proceed with the matter and to do the needful. Although, learned counsel submitted that the said application dated 18.2.2020 (Annexure P-4) had been duly received in the office of respondent No.3 and the petitioner had received acknowledgment in respect of the same but somehow the same has not been placed on record and it is the impugned orders dated 3.8.2022, which have been attached, wherein there is reference to some previous letter dated 6.9.2021 sent by the petitioner in this regard.

4. Learned counsel for the petitioner submitted that the impugned orders dated 3.8.2022 i.e. Annexures P-5 and P-6, wherein penalties equal to 10 times of stamp duty have been assessed, are against the prescribed procedure inasmuch the petitioner by way of sending letter dated 18.2.2020 (Annexure P-4) on the date of transfer of the share certificates itself, had acted in accordance with provisions of Section 31 of the Indian Stamp Act and that under these circumstances, the petitioner cannot be attributed with any kind of delay, whereas the impugned orders dated 3.8.2022 apparently have been passed on the premises that there was delay on the part of the petitioner. Learned counsel submits that although he had also submitted a representation/letter dated 15.5.2023 (Annexure P-7) to respondent No.2 – The Commissioner, Department of Revenue, Gurugram Division, Gurugram, Haryana, but to no avail.

5. Notice of motion.

6. At this stage, Mr. Samarth Sagar, Additional Advocate General, Haryana, upon whom an advance copy of petition had already been served, accepts notice on behalf of the respondent-State.

7. Having regard to the aforestated facts, wherein the impugned orders disclose that no notice was afforded to the petitioner before imposing penalties equal to 10 times of the stamp duty, this Court is of the opinion that principles of natural justice have been violated. As such, the instant petition is disposed of with a direction to respondent No.3 – The District Collector, Gurugram Division, Gurugram, Haryana to decide the matter afresh after furnishing an opportunity of hearing to the petitioner as well. The impugned orders dated 3.8.2022 (Annexures P-5 and P-6) are hereby set aside.

8. While deciding the matter, respondent No.3 shall duly examine contention of the petitioner that he had moved an application under provisions of Section 31 of Indian Stamp Act on 18.2.2020.

9. The petitioner shall appear before respondent No.3 – The District Collector, Gurugram Division, Gurugram, Haryana on 12.9.2023.

23.8.2023 **(Gurvinder Singh Gill)**
pankaj **Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No