294

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3503-2005(O&M)
Date of Decision: 22.10.2024

Anant Raj Industries Ltd and another . . . . Petitioners

versus

State of Haryana and others . . . . Respondents

****

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH

****

Present: Mr. Sandeep Goyal, Advocate for the petitioners.

Ms. Mamta Singla Talwar, Deputy Advocate General, Haryana.

****

<u>SANJEEV PRAKASH SHARMA, J.(Oral)</u>

1. This Court notices that vide order dated 26.05.2006, the interim order whereby the petitioners were allowed to deposit 50% of the total tax assessed by the Sales Tax Authorities, was vacated as the petitioners did not deposit even the 50% amount as allowed by this Court. For reference, order dated 26.05.2006 is reproduced herebelow:

> *"We have perused order dated 19.12.2005, wherein it was, inter-alia, observed:-*
>
> > *"We are unable to accept the stand of the petitioners. It is manifestly clear from various orders, passed either in the earlier petition or in the present petition, that the petitioner-Company was required to deposit 50 % of the total tax assessed with the Sales Tax Authorities till the issue raised*

by the petitioners in the writ petition was finally settled."

Learned counsel for the petitioner is unable to show that 50% of the total tax assessed has been deposited. In the rejoinder filed, it is stated that the assessee has been granted stay by the appellate authority as a condition for hearing of the appeal and that amount has been deposited.

Since interim order passed by this Court was conditional, we make it clear that the interim order granted in the writ petition will not be operative.

List for further hearing on 1.8.2006."

2. Thereafter, on 18.04.2007, the counsel for the petitioners upon the statement made by learned counsel for the respondent submits that summons had been issued to the petitioners on 30.3.2007 asking the petitioners to appear or otherwise face the penalty of attachment and arrest. The Court stayed the arrest of the petitioner and attachment of the property. For reference, order dated 18.04.2007 is reproduced herebelow:

"Learned counsel for the respondents has requested for a short adjournment on the ground that the State counsel who was entrusted the brief has bereavement in her family. However, learned counsel for the petitioner has pointed out that the summons were issued to the petitioner on 30.3.2007 by A.C. First Grade-cum-Assistant Excise and Taxation Officer, Faridabad asking the petitioner to appear and otherwise to face attachment and arrest (photocopy of which is taken on record as Mark 'A').

As the respondents are seeking adjournment, we stay arrest of the petitioner and attachment of the property of the petitioner in the meanwhile.

List again on 2.5.2007."

3. We find that the counsel at that time did not inform the Court that the Courts' orders had not been complied with and not even 50 % of the total tax had been deposited by him.

4. Thereafter, we find that even as on date the amount has not been deposited. Considering the aforesaid aspects, we do not find any reason to give an opportunity of hearing to the petitioners in the present writ petition. The proceedings are in the nature of equitable jurisdiction and the Court acts as a Court of equity apart from Court of law.

5. A person or a citizen cannot be allowed to play hide and seek with the Court and take advantage of the pendency of the petition by not making any payments relating to the revenue dues.

6. The respondent/State and its official(s) act on the basis of orders passed by the Court and we find that if some interim directions have been passed by the Court, State Official(s) usually keep their hands away, in view of the principle of *lis pendens.* At times, the Court also takes notice of the officials over reaching the process of Court. Therefore, we find that a huge amount which was due as against the petitioner is yet to be recovered. The Court while granting Stay on the arrest of the petitioner and the attachment of his property, was not apprised of the aforesaid facts of non-payment and they have not noticed the same in the order.

7. We find this case to be a gross abuse of process of the Court. The petitioners failed to inform the Court about the summons having been issued on account of non-payment of tax due against him, which was more than ₹ 3 crores and required to be paid since 2003. The Court initially exercised its discretion and directed that he may deposit 50% of the amount

but the petitioners did not deposit the same and the interim order passed by the Court was vacated. The petitioners did not deposit any amount even thereafter. The Department, therefore, rightly issued the summons for making payment, which prescribes attachment and arrest on non-payment. The interim order was passed on the request of the counsel for the petitioners, who did not inform the Court about the proceedings. The writ petition was admitted and sent in due course. Even thereafter the petitioners did not deposit any amount and even till date the amount has not been deposited. We find that the petitioner has misused the process of Court for avoiding payment of tax. At this stage, counsel for the petitioners submits that he should be allowed to argue the case.

8. The aforesaid proposition was reiterated by Hon'ble the Supreme Court in ***M/s Prestige Lights Limited vs State Bank of India*** 2007 (8) SCC 449 has held as under:-

> *"32. It is thus clear that though the appellant-Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a Court of Law is also a Court of Equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the Writ Court may refuse to entertain the petition and dismiss it without entering into merits of the matter."*

9. In ***G.M. Haryana Roadways vs Jai Bhagwan and another*** 2008 (4) SCC 127, Hon'ble the Supreme Court relying upon the judgment in ***M/s Prestige Lights Limited's*** case (supra), held as under:-

> *"The court notices that so as to enable it to refuse to exercise its discretionary jurisdiction, the suppression must be of material fact. What would be a material fact, suppression whereof would disentitle the Appellant to obtain a discretionary relief, would depend upon the facts and circumstances of each case.*
>
> *Recently, in Prestige Lights Ltd. v. State Bank of India, 2007(4) RCR (Civil) 46: 2007(4) RAJ 642: [(2007)8 SCC 449), this court held:*
>
> > *The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a Court of Law is also a Court of Equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the Writ Court may refuse to entertain the petition and dismiss it without entering into merits of the matter.*
>
> *Had the aforementioned facts been brought to the notice of this Court, the Special Leave Petition might have been dismissed summarily. Even delay in filing the same might not have been condoned. The Court was not required to waste so much of time when the State itself had, for all intent and purport, accepted the award."*

10. We are of the firm view that a person who has attempted to abuse the process of Court and has taken advantage wrongfully and thereby deprived the State of its due revenue ought not be allowed to be heard. We also noticed that the writ petitions are heard where there is violation of legal

rights of a person, however, considering the facts, as have come on record, it is apparent that the petitioners have attempted to mislead the Court and resultantly huge amount of tax could not be recovered from the petitioners or through attachment of their property. We, accordingly, refuse to entertain the writ petition and dismiss the same.

11. In the case of ***Kishore Samrite vs State of Uttar Pradesh and others*** 2013 (2) SCC 398, the Supreme Court held as under:-

> *"35. With the passage of time, it has been realised that people used to feel proud to tell the truth in the courts, irrespective of the consequences but that practice no longer proves true, in all cases. The court does not sit simply as an umpire in a contest between two parties and declare at the end of the combat as to who has won and who has lost but it has a legal duty of its own, independent of parties, to take active role in the proceedings and reach at the truth, which is the foundation of administration of justice. Therefore, the truth should become the ideal to inspire the courts to pursue. This can be achieved by statutorily mandating the courts to become active seekers of truth. To enable the courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehood, must be appropriately dealt with. The parties must state forthwith sufficient factual details to the extent that it reduces the ability to put forward false and exaggerated claims and a litigant must approach the court with clean hands. It is the bounden duty of the court to ensure that dishonesty and any attempt to surpass the legal process must be effectively curbed and the court must ensure that there is*

> *no wrongful, unauthorised or unjust gain to anyone as a result of abuse of process of court. One way to curb this tendency is to impose realistic or punitive costs.*"

12. We find that the summons have been rightly issued to the petitioners for payment of the aforesaid amount, failing which they would have to face attachment and arrest.

13. Respondents are now directed to take immediate steps for recovery of the tax including interest from Petitioner No.1-Company and petitioner No.2 including attachment of their properties as well as other steps including arrest, if so warranted.

14. However, the cost of ₹ 1,00,000/- (one lakh) is imposed upon the petitioners considering that since the year 2003, the amount has not been deposited and advantage was taken by the petitioners getting the writ petition admitted in the year 2007. Even, after so many years the payment has not been made. The cost of ₹ 1,00,000/- (one lac) shall be deposited with respondent no. 3.

8. Pending miscellaneous application(s), if any, shall also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

October 22, 2024
Rashmi/vs

1. Whether speaking/reasoned? ***Yes/No***
2. Whether reportable? ***Yes/No***