IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) CWP-22410-2018

Paramjit Singh

...Petitioner

Versus

Financial Commissioner, Punjab and others

...Respondents

(2) CWP-2147-2019

Paramjit Singh

...Appellant

Versus

Financial Commissioner, Punjab and others

...Respondents

Date of decision:-13.03.2024

CORAM: HON'BLE MR.JUSTICE SUVIR SEHGAL

Present: Mr.Sherry K. Singla, Advocate
for the petitioner (s) in both the cases.

Mr.Amit Chaudhary, DAG, Punjab
for the respondents in both the cases.

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SUVIR SEHGAL, J.(ORAL)

1. This order shall dispose of both the above-noted writ petitions as they involve common questions of law and fact. For the sake of convenience, factual position is being taken from CWP-22410-2018.

2. Petitioner has moved this Court under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for

setting aside orders dated 24.01.2018, 23.08.2017 and 19.02.2016 (Annexures P7, P6 and P4, respectively) passed by respondents No.1 to 3 whereby he has been ordered to deposit an amount of Rs.4,38,000/- towards deficiency of stamp duty, registration charges alongwith interest under the Indian Stamp Act, 1899.

3. Facts are not in dispute. Petitioner has averred that he purchased 6 kanal land in village Nandanpur, Tehsil and District Jalandhar on the basis of jamabandi for the year 2008-09 vide sale deed dated 24.08.2011, Annexure P1. He was served with a notice dated 19.12.2013, Annexure P2 on the ground that the sale deed has been undervalued. He submitted his reply. However, vide impugned order, Annexure P4, petitioner was asked to deposit deficient stamp duty, etc. Appeal filed by the petitioner was rejected by respondent No.2 by order Annexure P6. Petitioner preferred a revision petition, which has been declined vide order, Annexure P7. These orders have been challenged in the instant petition. Upon notice, reply has been filed by the official respondents stating that during audit in the year 2011-12, it was found that the purchased land was *gair mumkin* plot as per khasra girdawari for the year 2010-11. Finding that inadequate stamp duty had been affixed, matter was referred to the Collector, Jalandhar for initiating proceedings under Section 47-A of the Indian Stamp Act, 1899. It has been submitted that the petitioner had deposited stamp duty under a wrong Code. Reference has been made to order dated 08.04.2011, Annexure R1, to submit that the purchased land fell in segment Code No.0048 and the

petitioner had paid stamp duty by deliberately mentioning that the land is agricultural. Reference has also been made to spot inspection report dated 16.02.2016, Annexure P5 , prepared by the SDM, Jalandhar – II.

4. Counsel for the petitioner has urged that the petitioner had preferred a revision petition, which was not maintainable and has been rejected as such by respondent No.1. He submits that the revision had been filed under wrong legal advise. By placing reliance upon the judgments of this Court in ***Pankaj Gupta and ors. Versus State of Haryana and ors., 2014 (3) RCR (Civil) 590*** and ***Asha Rani Versus Commissioner, Jalandhar Division, 2017 (2) LJR 54***, he has argued that a report, prepared on the basis of inspection done five years later, cannot form the basis for determining the stamp duty, moreso when the Collector had not made any independent inquiry. It is his argument that the Appellate order, Annexure P6 has been passed by the Commissioner – respondent No.2 without giving any reason and therefore, it cannot be sustained.

5. *Per contra*, learned State counsel has supported the impugned orders and by placing reliance upon the report, Annexure P5, he submits that the stamp duty has been properly assessed.

6. Without adverting to the arguments raised by the counsel for the petitioner on merits, it is apposite to notice and reproduce the effective portion of impugned appellate order, Annexure P6, which is as under:

> *"4. I have considered the arguments advanced by the learned counsel for the appellant and have gone through the record*

received in the case and papers brought on the file. I find that the order of Collector, Jalandhar under appeal deserves to be maintained. I find that as per report of SDM, Jalandhar – 2 dated 16.02.2016, there is a colony carved out on the land in dispute and plots have been made. Dairy is also there. There is no illegality or perversity in the order of the Collector dated 19.02.2016. There is no force in the appeal and the same is hereby dismissed."

7. It is evident from the above that the Appellate Authority has not dealt to the contentions of the counsel for the petitioner, rather it has simply 'rubber stamped' the order passed by the Collector without assigning any reason in support thereof. In ***M/s Kranti Associates Pvt. Ltd. and another Versus Sh. Masood Ahmed Khan and ors. (2010) 9 SCC 496***, Supreme Court has held that reasons have virtually become an indispensable component of decision making process and facilitate the process of judicial review by superior Courts. It has observed that a judicial authority must record reasons in support of its conclusion as it operates as a valid restraint on any possible arbitrary exercise of power. The Apex Court is of the view that insistence on reasoning is a requirement for both judicial accountancy as well as transparency.

8. In ***M/s Mangalore Ganesh Beedi Works Vs. Commissioner of Income Tax, Mysore and anr. (2005) 2 SCC 329***, it has been observed that although in an order of affirmation, repetition of reasons may not be necessary, but even then the arguments advanced, points urged have to be dealt with and reasons for affirmation have to be indicated, though in

appropriate cases they may be briefly stated. As the impugned Appellate order, Annexure P6 is bereft of reasons and there is non-application of mind, it cannot be sustained.

9. In view of the above discussion, impugned order, Annexure P6 passed by Appellate Authority is set aside and the matter is remitted to respondent No.2 to decide it again by passing a reasoned order after hearing the parties.

10. Petition is disposed of.

11. Parties are directed to appear before Commissioner, Jalandhar Division, Jalandhar – respondent No.2 on 24.04.2024, at 10:00 a.m. for further proceedings.

12. Photocopy of the order be placed on the file of the connected petition.

13.03.2024 **(SUVIR SEHGAL)**
Brij **JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No