
(2009) 08 DEL CK 0227

In the Delhi High Court

Case No : Writ Petition (C) No. 10676 of 2009

Capital Cargo Carriers

APPELLANT

Vs

Assistant Collector Grade-I and Others

RESPONDENT

Date of Decision : 04-08-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 08 DEL CK 0227

Hon'ble Judges : S.N. Aggarwal, J

Bench : Single Bench

Advocate : Jitesh Pandey, for the Appellant; Amiet Andlay, for the Respondent

Judgement

S.N. Aggarwal, J.

C.M. No. 9576/2009 (Exemption) in W.P.(C.) No. 10676/2009

Exemption as prayed for is granted subject to all just exceptions.

W.P.(C.) No. 10676/2009 and C.M. No. 9575/2009 (for stay)

1. M/s Capital Cargo Carriers (petitioner herein) has filed this writ petition under Article 226 of Constitution aggrieved by a recovery certificate dated 22.06.2009 issued by respondents No. 1 & 2 seeking to recover an amount of Rs. 1,04,606/- from him as arrears of land revenue. The petitioner in this petition seeks setting aside of the impugned order.

2. Issue notice. Mr. Amiet Andley, accepts notice of this petition on behalf of the respondents No. 1 & 2.

3. Since the impugned order sought to be set aside in this writ petition has been passed by respondents No. 1 & 2 and as counsel on behalf of the respondents No. 1 & 2 is present in Court, I do not consider it necessary to issue notice to the respondent No. 3 who in the present petition is only a proforma respondent.

4. With the consent of counsel for both the parties, this writ petition has been

taken up for final disposal at admission stage itself.

5. Briefly stated the facts of the case relevant for the disposal of this writ petition are that the respondent No. 3 being the workman had obtained an award dated 05.05.2005 against the management of M/s Kohli Transport Carriers (P) Ltd. for his reinstatement and back wages. This award obtained by the workman against M/s Kohli Transport Carriers (P) Ltd. has not been implemented till date. However, respondents No. 1 & 2 have issued impugned recovery certificate dated 22.06.2009 against the petitioner M/s Capital Cargo Carriers and seek to recover the award amount from the petitioner as arrears of land revenue.

6. Mr. Amiet Andlay, learned Counsel appearing on behalf of the respondents No. 1 & 2, has drawn attention of this Court to an affidavit furnished by the workman (Annexure P-9 at Page 51 of the Paper Book) and has submitted that the impugned recovery certificate has been issued against the petitioner in view of the statement of the workman that M/s Kohli Transport Carriers (P) Ltd. has changed its name from M/s Kohli Transport Carriers (P) Ltd. to M/s Capital Cargo Carriers and has shifted its business to Kothi No. 1, Khasra No. 695/3, Motia Khan Chowk, Sadar Thana Road, Nabi karim, Delhi.

7. The counsel appearing on behalf of the petitioner has argued that the petitioner is a proprietorship firm, of which Mr. Gagandeep Singh Kohli is the sole proprietor. According to the learned Counsel, Mr. Gagandeep Singh Kohli was one of the Directors of M/s Kohli Transport Carriers (P) Ltd. and had been removed from its directorship w.e.f. 26.05.2003 vide Board Resolution dated 26.05.2003. The learned Counsel appearing on behalf of the petitioner submits that the petitioner proprietor Mr. Gagandeep Singh Kohli is left with no connection with M/s Kohli Transport Carriers (P) Ltd. after 26.05.2003. This Court need not go into this aspect of the matter whether the petitioner's proprietor had been removed from the directorship of M/s Kohli Transport Carriers (P) Ltd. or not. This writ petition can be disposed of on a legal issue that the award was obtained by the workman against a company incorporated under the Companies Act, 1956 which in law has an independent existence. The company incorporated under the Companies Act is a separate juristic entity and its liability is limited by its shareholding. The Directors of the company are not personally liable for the liability owned by a company. The Director, at best, can be prosecuted for non-implementation of the award if it is shown that such a Director was responsible for implementing the award and had deliberately avoided to implement the award. The Directors cannot be held personally liable in financial matters relating to the affairs of the company. In the opinion of this Court, the petitioner has nothing to do with the company against whom award in favour of the workman was passed by the Industrial Adjudicator. It seems that the respondents No. 1 & 2 have issued the impugned recovery certificate against the petitioner mechanically and without application of legal mind.

8. In view of the above, the impugned order dated 22.06.2008 cannot be sustained in law and the said order is, therefore, set aside. The respondents No.

1 & 2 are however directed that they should implement the award dated 05.05.2005 in I.D. No. 1095/2004 in favour of workman as per law.

9. In view of the above, this writ petition stands disposed of.