**(2014) 07 AHC CK 0196**

**In the Allahabad High Court**

**Case No :** Writ-C Nos. 34665 and 34666 of 2014

Indian Oil Corporation Ltd. APPELLANT

Vs

Chief Controlling Revenue Authority RESPONDENT

**Date of Decision :** 09-07-2014

**Acts Referred:**
Stamp Act, 1899 — Section 56

**Citation :** (2014) 106 ALR 150 : (2014) 124 RD 328

**Hon'ble Judges :** Surya Prakash Kesarwani, J

**Bench :** Single Bench

**Advocate :** Prakash Padia, Advocate for the Appellant

**Final Decision :** Disposed Off

## Judgement

Surya Prakash Kesarwani, J.—Heard Sri Prakash Padia, learned Counsel for the petitioner and Sri B.P. Singh Kachhwah, learned Standing Counsel for the respondents. Briefly stated the facts of the present case are that two orders determining deficiency of the stamp duty u/s 47-A of the Indian Stamp Act, were passed.

2. Aggrieved with these two orders, the petitioners filed two separate revision being Appeal No. 46 of 2011, which is subject matter of Civil Misc. Writ Petition No. 34665 of 2014 and Revision No. 48 of 2012, which is subject matter of Writ Petition No. 34666 of 2014. When no interim order was passed, the petitioner in the matter of Revision No. 48 of 2012, filed Writ Petition No. 7987 of 2013, which was disposed of by an order dated 13.2.2013 directing the respondent No. 1 to decide the aforesaid revision or at least the Stay Application in accordance with law, as expeditiously as possible, preferably within a period of six weeks from the date of production of the certified copy of the order. For a period of two months or till the decision of the revision or consideration of the stay application, the realization of the deficient stamp duty, penalty and interest pursuant to the order of the Collector was stayed subject to verification of deposit of 1/3rd of the disputed amount deposited by the petitioner. However, in Appeal No. 46 of 2011

 

an interim order dated 20.11.2012 was passed and in Revision No. 48 of 2012 an interim order dated 11.2.2013 was passed in which it was observed that the petitioner has deposited 1/3rd of the amount and accordingly the recovery is stayed for a period of 30 days. In the meantime, the verification of the amount deposited by the petitioner may be done. However, for one reason or the other both the cases filed by the petitioner could not be decided and despite the application moved by the petitioner, the interim order was not extended and the same have been kept pending, while on the other hand, the respondent authorities started taking steps-to recover the balance disputed amount, "the petitioner has also filed the copies of order sheet to demonstrate that they have not taken any adjournments in the pending revisions.

3. Aggrieved with the actions of the respondents to recover the balance disputed amount, these writ petitions have been filed.

4. Sri Prakash Padia, learned Counsel for the petitioner submits that the petitioners have complied with the statutory conditions of deposit of 1/3rd of the disputed amount which fact has also been verified yet neither the interim order has been extended nor the appeal/revision have been decided. He submits that the action of the respondents is wholly arbitrary and unjustified.

5. Sri B.P. Singh Kachhwah submits that records were called for by the respondent No. 1 from the authorities below on 11.3.2013 followed by order dated 11.4.2013 and 2.5.2013. On several dates there was strike of the advocates. On 27.1.2013 and 17.4.2014 the matter could not be taken up due to paucity of time. On 17.4.2014 mere was strike of advocates. In support of his submission he refers to the copies of order sheet filed by the petitioners in Writ Petition No. 34666 of 2014. Since, the interim order has not been extended by the respondent No. 1 and as such the respondent Nos. 2 and 4 are justified to initiate recovery proceedings.

6. I have carefully considered the submissions of the learned Counsel for the parties and perused the record.

7. I find much substance in the argument of Sri Prakash Padia. It is undisputed that 1/3rd amount has been deposited by the petitioners and an interim order staying the recovery proceedings for 30 days pending verification of the deposit was passed. Once the deposit has been verified there was no reason before the respondent No. 1 not to extend the stay order. Under the circumstances, the respondents are not justified to take steps to recover the amount from the petitioner, who is a Government of India Company. The petitioners have already deposited 1/3rd amount of the dispute tax. It is also stated that even the security for the balance amount has been submitted. Under the circumstances, I find no justification for the respondent authorities to initiate recovery proceedings to recover balance amount of the disputed tax. The respondent No. 1 should have made efforts to decide the revision itself.

8. In view of the above discussions, the writ petition is disposed of with a

 

direction to the respondent No. 1 to consider and decide in accordance with law the Stamp Appeal No. 46 of 2011 and Revision No. 48 of 2012, u/s 56 of the Indian Stamp Act, expeditiously, preferably within a period of three months from the date a certified copy of this order is filed before him which the petitioner undertakes to file within two weeks.

9. For a period of three months or till the Appeal No. 46 of 2011 and Revision No. 48 of 2012 are decided, no coercive action shall be taken by the respondents against the petitioner, pursuant to the impugned recovery certificate. With the aforesaid direc(sic) the writ petition is disposed of.

 