(2013) 11 MAD CK 0105

In the Madras High Court

Case No : C.M.A. No. 1882 of 2006 and M.P. No''s. 1 and 2 of 2006, 1 of 2007

Sushil Kumar Chokkani APPELLANT

Vs

The Inspector General of Registration and Others RESPONDENT

Date of Decision : 04-11-2013

Acts Referred:

Citation : (2014) 2 MLJ 363

Hon'ble Judges : S. Vimala, J

Bench : Single Bench

Advocate : N. Devarajan, for the Appellant; M. Jayasree, Govt. Advocate (CS), for the Respondent

Judgement

S. Vimala, J.—The ''Samadhan Scheme'', as mooted out by the Commercial Taxes and Registration Department, in G.O.Ms. No. 132, dated 31.10.2011, offered remission of 1/3rd of the difference of stamp duty, between the duty already paid and what is chargeable on the value of the properties as proposed by the Registering Officer on the basis of guideline value, in respect of documents, where determination of market value was pending consideration u/s 47-A of The Indian Stamp Act, 1899, subject to the intending beneficiaries, availing the scheme within certain time frame.

1.1. This scheme was pertaining to instruments pending for determination of the market value and proper stamp duty payable thereon, as per Section 47-A of The Indian Stamp Act, 1899.

1.2. This scheme was mooted out, in order to enable the public to get back the registered documents quickly and also to enable the Government to realise the Revenue immediately.

1.3. By virtue of this notification issued, this scheme was made applicable to instruments in respect of which appeals have been preferred to the High Court u/s 10 of Section 47-A of The Indian Stamp Act, and are pending in the High Court, as on 31.07.2011.

By virtue of the sale deed, dated 02.09.2004, in Registration Nos. 6195 and 6196 of 2004, the appellant, Sushil Kumar Chokkani, purchased properties in S.F. No. 650 in Thottipalayam Village, in Tiruppur Taluk, located within the jurisdiction of Joint-1 Sub-Registrar Office, Tiruppur, where the market value of the property set-forth was Rs. 12,50,000/- in each of the documents. On a reference made by the Registering Authority, the Special Deputy Collector determined the market value at Rs. 44,78,915/- and Rs. 45,18,137/- respectively.

1.4. Challenging the same, appeal was filed by the appellant before Inspector General of Registration. The Inspector General of Registration fixed the market value of the property at Rs. 408/- per sq. ft., as against the value fixed at Rs. 346/- per sq. ft., by the District Revenue Officer (Stamps). Challenging this finding, Civil Miscellaneous Appeal is filed before this Court.

2. In the Civil Miscellaneous Appeal, the appellant has sought for, setting aside the order of the Inspector General of Registration (Appellate Authority), dated 13.02.2006 or alternatively, seeking direction to the respondents to give the benefit of ''Samadhan Scheme'' announced by the first respondent, in respect of the documents referred to above.

3. The appellant herein has already sent a representation, dated 15.11.2011, seeking the benefit under ''Samadhan Scheme''. The Inspector General of Registration has sent a reply, dated 03.08.2012, intimating that the request for refund of stamp duty is not feasible. This reply, according to the learned counsel for the appellant, has no relevance, as the appellant did not ask for refund of the stamp duty, but has only requested for consideration of his claim under the ''Samadhan Scheme''. It is further pointed out that the reply by the Inspector General of Registration will not amount to rejection of claim under ''Samadhan Scheme''.

3.1. This Court is of the view that from the nature of reply sent, viz-a-viz, the nature of request made, the reply will not amount to rejection of the benefit under ''Samadhan Scheme''.

3.2. The appellant has deposited a sum of Rs. 3,89,210/- towards compliance of the interim order passed by this Court in M.P. No. 1 of 2006 in CMA No. 1882 of 2006. This amount, according to the learned counsel for the appellant, is 60% of the difference between the stamp duty, which is paid in the instrument at the time of registration and which is the stamp duty payable, as determined by the authorities. This fact is not disputed by the learned Government Advocate (CS) appearing for the respondents.

3.3. According to the learned counsel for the appellant, those who are intending to avail the benefit of ''Samadhan Scheme'' is expected to pay, 2/3rd of the deficit stamp duty payable, along with 1% of the registration charges, and the appellant, who has already paid 60% of the stamp duty payable, is now willing to pay the balance of 6.66% of the amount due and 1% of the registration charges and the Government must be directed to accept the same.

3.4. Learned counsel for the appellant strenuously contended that the appellant, having offered to avail benefit under ''Samadhan Scheme'' and having already paid 60% of, the duty already paid and what is chargeable on the value of the properties as determined by the concerned authorities, i.e., the deficit stamp duty payable, is fit for consideration under ''Samadhan Scheme'' and there can be no reasonable excuse for not extending the benefit to the appellant.

3.5. Learned Government Advocate (CS) fairly conceded that there cannot be any legal impediment to the Government to accept the offer made by the appellant, as the offer was made well within the permitted time under the ''Samadhan Scheme'' referred to above.

3.6. Admittedly, the Civil Miscellaneous Appeal has been filed on 17.04.2006. As per the notification issued in G.O.Ms. No. 132, dated 31.10.2011, the benefit would be extended to appeals, which are preferred to the High Court, under Sub-section 10 of Section 47-A under The Indian Stamp Act, pending as on 31.07.2011. Therefore, as this appeal was pending from 17.04.2006, and continued to be pending as on 31.07.2011, is eligible for consideration under ''Samadhan Scheme''.

4. In respect of each of the documents, i.e., No. 6195 of 2004 and 6196 of 2004, the appellant shall pay deficit stamp duty of 6.67%, along with 1% of the Registration Charge, within a period of 10 days from the date of receipt of a copy of this order and on such payment, the respondents, towards extending the benefit of ''Samadhan Scheme'', shall return the registered documents to the appellant, within a period of two weeks from the date of payment. This Civil Miscellaneous Appeal is ordered, on the above terms. No costs. Consequently, the connected MPs are closed.