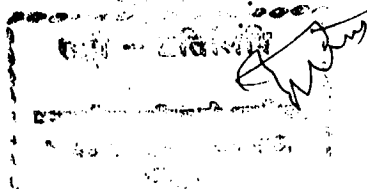




stamp/registration charges. It appears that audit objections were raised by the office of the Accountant General, wherein it was observed that in view of the land gifted being for the purposes of setting up of the bus stand and the use thus being commercial, the land gifted to the RSRTC ought to have been valued at the DLC rate of 1500/- per square yard and the stamp duty levied accordingly.

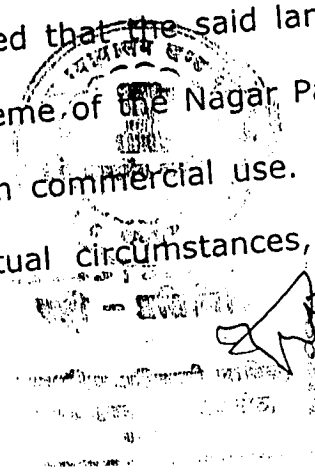
In pursuance to the audit objection, a notice under Section 47-D of the Rajasthan Stamp Act, 1998 (for short, "the Act of 1998") came to be issued both the RSRTC and Shri Ramdevaram by the Deputy Registrar, Dataramgarh (Sikar). Subsequently, a reference was made to the Collector (Stamp), Jaipur. On the reference so made, the Collector (Stamp), Jaipur Region, Jaipur-II (camp Sikar) took ex-parte proceedings, inter-alia, against the petitioner and the RSRTC and valued the land as commercial land on the date of the gift deed at Rs. 54,81,000/- and fixed the short duty paid and penalty thereon at Rs. 5,60,000/- vide order dated 7.1.2004.

Aggrieved of the order dated 7.1.2004 passed in Reference No. 1128/02, a revision petition was filed



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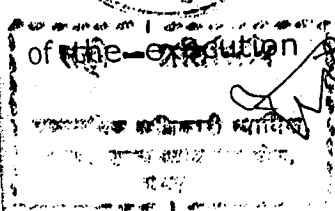
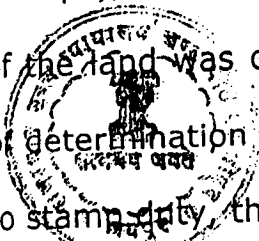
before the Rajasthan Tax Board, accompanied by an application u/s 5 of the Limitation Act for delayed filing of the revision. The Rajasthan Tax Board condoned the delay in view of the fact that the proceedings against the RSRTC were taken by the Collector (Stamps) ex-parte, and therefore, there was no occasion for the RSRTC to be aware of the reference proceedings in respect of the transaction whereby the land ad-measuring 3654 Sq. yards had been gifted to the RSRTC. The Tax Board from the facts on record on the merits of the case noted that it was an admitted case that on the date of the gift the land in issue was recorded in the revenue record as 'agriculture' and was not being put to any commercial use nor in fact even any application for change of land use thereof from agricultural to commercial had even been filed. It was also noted by the Tax Board that the Nagar Palika, Losal where the land in issue was situate, vide its certificate dated 14.7.2000 had categorically stated that the said land did not fall in any commercial scheme of the Nagar Palika nor in fact was being put to such commercial use. The Tax Board, in the aforesaid factual circumstances, held that the objections of the



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audit department with regard to the alleged commercial nature of the land gifted to the RSRTC were without substance. The Tax Board held that the Collector (Stamp) had erred in law and misdirected himself in holding so and raising a demand for stamps duty allegedly short paid and penalty thereof as also additional registration charges. The Tax Board also noted that the entire proceedings against the RSRTC had been initiated without compliance with the principles of natural justice and ex-parte proceedings taken without service of notice.

The Tax Board further recorded the fact that it was also not disputed that the land gifted to the RSRTC, apart from being agricultural in nature in the revenue record at the relevant time, was not even situate in an area where commercial activities were in fact going on. Most tellingly, the Tax Board also referred the Circular No. 2/2004 issued by the Inspector General (Registration & Stamps), whereunder it was stated that the potential use of the land was of no consequence and for the purposes of determination of the value of the land being subjected to stamp duty, the existing nature of the land on the date of the execution of the deed was relevant. On the

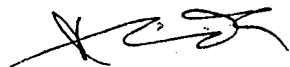


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aforesaid grounds the Rajasthan Tax Board set aside the order passed by the Collector (Stamp) on 7.1.2004 in the reference petition, quashing the demand raised against the RSRTC.

I have heard the counsel for the petitioner and perused the writ petition and the impugned order.

The reasoning of the Rajasthan Tax Board is sterling. The market price of the land being transacted for the purposes of levy of stamp duty under the Act depends upon the nature and character of the land on the date of transaction. The potential use of the land is not a matter to be taken into consideration for determination of market value for the purposes of stamp duty. Even otherwise, from the facts on record it was apparent that the land apart from not being formally changed from agricultural to commercial or was situate in an area where there was no commercial activity at all. The Collector (Stamp) over-looking the aforesaid facts appears to have been burdened by the audit objections. ~~The~~ audit objections could not substitute the facts on record and the determination of valuation of the land transacted in accordance with the Act of 1998 and the



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rules made thereunder.

I find no error in the order passed by the Rajasthan Tax Board.

The writ petition has no merit and deserves dismissal. Dismissed as such.



(Alok Sharma), J.

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Handwritten signature and date '27/2/20' over a rectangular stamp.

A rectangular stamp is present, partially obscured by a handwritten signature and the date '27/2/20'. The stamp contains text in Hindi, including 'राजस्थान कर बोर्ड' (Rajasthan Tax Board) and 'जयपुर' (Jaipur).