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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8395/2014 & CM Nos.19436/2014 & 37226/2016**

M/S AMBUJA CEMENT LTD.

..... Petitioner

Through: Dr Abhishek Manu Singhvi, Sr. Advocate with Mr Ashim Sood, Ms Roopali Singh, Ms Sayabani Basu, Mr Dhruv Sood, Mr Sidhartha and Mr Rhythm, Advocates.

versus

COLLECTOR OF STAMPS, GOVERNMENT OF
NCT OF DELHI

..... Respondent

Through: Mr Anoop George Chaudhary, Sr. Advocate, Ms June Chaudhary, Sr. Advocate with Mr Ramesh Singh, Sr. Standing Counsel, (Civil), GNCTD with Mr Rahul Sharma and Mr C. K. Bhatt, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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30.01.2018

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 05.11.2014 (hereafter 'the impugned order') passed by the respondent (Collector of Stamps) pursuant to a Show Cause Notice dated 09.04.2014 calling upon the petitioner as to why proceedings not be initiated against it.

2. It is the petitioner's case that the proceedings are wholly without

jurisdiction because the instrument in question (share certificates) was executed/issued in the State of Haryana and in the State of Himachal Pradesh, and the stamp duty as applicable in the aforesaid States was paid by affixing adhesive stamps.

3. Mr Chaudhary, the learned senior counsel appearing for the respondent (the Collector of stamps) states that no binding order has been passed by the Collector of Stamps and the impugned order only expresses his, *prima facie*, view leading to directions for issuance of a show cause notice. He drew the attention of this Court to the last sentence of the impugned order, which reads as under:-

“Let a notice be issued as to why prosecution and penalty prescribed may not be imposed upon them.”

4. He states that the said show cause notice, as and when issued, would be pre-cursor to an opinion that may be formed under Section 70 of the Indian Stamp Act, 1899 (hereafter ‘the Act’). He further explained that if the respondent forms an opinion after considering the petitioner’s response to the show cause notice that would be issued pursuant to the impugned order, that the petitioner is liable for penalty and prosecution under Section 62 of the Act, he would then sanction prosecution under Section 70 of the Act, which would be subsequently tried. He submits that in the first instance, the petitioner would have an opportunity to persuade the respondent not to issue an order sanctioning prosecution pursuant to the show cause notice that may be issued. The petitioner would have a second opportunity to challenge such an order, if passed, by approaching the Chief Controlling Revenue Authority under Section 70(2) of the Act for seeking stay of such prosecution. The

petitioner would have yet another opportunity to canvass its case in a trial before a Magistrate as contemplated under Sections 71 and 72 of the Act.

5. He further stated that the impugned order cannot be read to indicate that the respondent has made a firm mind on some of the issues that are sought to be agitated in this petition.

6. Clearly, if the respondent's statement is accepted that the impugned order is only a pre-cursor to a show cause notice to be issued, it would follow that none of the findings (regarding the subject of payment of stamp duty in the aforesaid States and the quantification of the non-payment of stamp duty in Delhi) as articulated in the impugned order are binding on either parties; that is, not binding on the petitioner and also not binding on the respondent. This also means that the respondent would have to consider the matter and take an appropriate decision uninfluenced by the opinion expressed in the impugned order, which - at best - can be termed as his *prima facie* view.

7. In view of the above stand of the respondent, this Court does not consider it apposite to entertain the present petition at this stage and adjudicate the issues raised in the present petition. It would be open for the petitioner to respond to the show cause notice as and when the same is issued. It is further clarified that as and when the notice is issued, the respondent will consider the petitioner's pleadings in the present case as its response in addition to any further response that the petitioner may submit before the respondent.

8. The petition is disposed of with the aforesaid observations.

9. In the event, the petitioner is aggrieved at any stage, the petitioner is at liberty to apply afresh. Needless to state that if such petition is filed, the same would be subject to the respondent's objection on maintainability and on merits.

VIBHU BAKHRU, J

JANUARY 30, 2018

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Publisher has only added the Page para for convenience in referencing.