

**Board of Revenue, Uttarakhand
Chief Controlling Revenue Authority**

Revision no. 17/2005-06 u/s 56 Indian Stamp Act, 1899

**Girish Chand Juyal s/o Shri Ravi Dutt Juyal vs Collector, Dehradun
Re
Property known as 40, East Canal Road, Dehradun city, District Dehradun**

ORDER

This revision is filed against the order of Collector, Dehradun passed on 27th February, 2006 in Case no. 2/2003 u/s 47A of The Indian Stamp Act by which order dated 31st March, 2000 passed by the Assistant Commissioner of Stamps (acting as Collector under the Stamp Act) in case no. 83/1999 was set aside on the ground that it was passed ex-parte, without hearing the State through District Government Counsel (Revenue).

The facts of the case are that a sale deed was executed in favour of the revisionist on 29th March, 2000 of the property in question in pursuance of a registered agreement to sell dated 21st January, 2000. According to the order dated 31st March, 2000 of the Assistant Commissioner of Stamps, the deed was referred to him by the Sub Registrar on "random sampling" basis for the determination of the correct market value on the basis of which he proceeded to enquire into the market value of the property transferred through the impugned document, issued notice to and heard the counsel for the revisionist and came to the conclusion that the document was correctly stamped in a matter of two days, i.e. 30th and 31st of March, 2000. This speed of decision making by a government officer acting in a quasi judicial capacity is commendable, but, gives rise to doubt about the genuineness of the enquiry conducted, especially in view of the conclusion reached. In the ordinary course of functioning even the service of notice would take longer than two days, unless, the Assistant Commissioner, Stamps was personally known to the revisionist, in which case it was possible to prepare a notice, serve it upon the revisionist by hand, allowing the revisionist to appoint a counsel, fixing a date of hearing, hearing the case on that date and writing down and delivering the decision. The conclusion appears inescapable that the Assistant Commissioner acted in great haste and, therefore, the decision rendered by him is

liable to be set aside and the impugned order of the Collector upheld on this account itself.

If one peruses the order of the Assistant Commissioner, Stamps, it does not reveal any enquiry made by him regarding the "market value" of the property transferred. He has simply accepted the facts as stated in the document. It is accepted law that where market value of a property has been determined once by the Collector under Section 47A, there is no opportunity to review that determination, but, where, as is evident in the present case, there has been no attempt by the Assistant Commissioner of Stamps to discover the market value of the property transferred, the result is that there is no determination of market value, and, therefore, it is possible to re-open the proceedings and proceed to enquire into the "market value" of the property transferred. Hence, the order of the Assistant Commissioner, Stamps is liable to be set aside and the impugned order of the Collector upheld on this account.

Moreover, as stated in the order of the Assistant Commissioner, Stamps the reference made to him was on the basis of "random sampling". There is no provision under Section 47A to refer to the Collector for determination of market value any instrument on the basis of "random sampling". Section 47A does not permit such "fishing" for possible cases of undervaluation of property. Section 47A provides for reference by Sub Registrar only if the market value set forth in the instrument is less than the minimum value determined in accordance with any rules made under this Act, or, where the registration officer has reason to believe that the market value of the property which is the subject of such instrument has not been truly set forth in the instrument. The only inference that could be drawn from the reference on the basis of "random sampling" is that the Assistant Commissioner, Stamps "manufactured" a reference to himself from the Sub Registrar so that he could exercise his power as Collector in favour of the revisionist. Therefore, the order of the Assistant Commissioner, Stamps is liable to be set aside and the impugned order of the Collector upheld on this account.

A perusal of the records of the Case no. 2/2003 in the court of Collector, Dehradun shows that notice was issued in the case on 23rd October, 2002 and, therefore, the proceedings were initiated under Section 47A are within time.



In view of these findings, the revision fails. Collector, Dehradun is directed to proceed with determination of the market value of the property transferred by the sale deed executed in favour of the revisionist on 29th March, 2000 and determine the stamp duty payable.

(Suneel Kumar Muttoo)
Chief Controlling Revenue Authority

Dehradun
14th August, 2013