**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

101 (I) CWP-12415-2016 (O&M)
Date of Decision : July 14, 2026

M/S SOMA NEW TOWNS PRIVATE LIMITED -PETITIONER

V/S

STATE OF PUNJAB AND OTHERS -RESPONDENTS

(II) CWP-12552-2016

M/S SOMA NEW TOWNS PRIVATE LIMITED -PETITIONER

V/S

STATE OF PUNJAB AND OTHERS -RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Manjeet Singh, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, A.A.G., Punjab.

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<u>KULDEEP TIWARI, J. (ORAL)</u>

1. Both these writ petitions are amenable to be decided through a common verdict, as they inhere a common question of law for determination, *viz*. ***"whether the prospective future use of a land can be taken into consideration by the authority while determining the stamp duty payable under the Indian Stamp Act, 1899 (hereinafter referred to as "the Stamp Act")"***. For the sake of brevity and convenience, the facts are being extracted from CWP-12415-2016.

2. The writ petition assails the orders dated 21.10.2014 and 11.02.2016 passed by the Collector and the Commissioner, respectively, whereby the Collector directed the petitioner to pay an amount of

₹5,81,000/- towards deficiency in stamp duty along with interest amounting to ₹2,46,408/- in respect of Sale Deed No.120 dated 07.04.2011, and the statutory appeal preferred by the petitioner against the said order was dismissed by the Commissioner.

3. Learned counsel for the petitioner contends that the authority has erred in determining the value of the land in question by taking into account its future potential and prospective use, which is wholly impermissible under the provisions and scheme of the Stamp Act. It is further submitted that the notification dated 28.01.2011, which formed the basis for the authority to fasten the additional stamp duty liability upon the petitioner, was under challenge before this Court in CWP-24156-2013, wherein its operation had been stayed. Subsequently, the said notification was withdrawn by the State Government vide instructions dated 03.04.2014, i.e. before the passing of the impugned order dated 21.10.2014. Consequently, it is argued that the impugned orders, having been passed on the basis of a withdrawn notification, are illegal and unsustainable in law.

4. *Per contra*, learned State counsel, while defending the validity and legality of the impugned orders, submits that the proximity between the execution of the sale deed and the subsequent grant of change of land use is a relevant factor, as it demonstrates the enhanced potential of the land. It is contended that since the nature of the land was subsequently converted from agricultural to commercial use, the petitioner was rightly directed to pay stamp duty calculated on the basis of commercial rates.

5. This Court has considered the rival submissions advanced by learned counsel for the parties and has perused the record. The facts, shorn

of unnecessary details, are that the petitioner purchased land measuring 20 Kanals situated at Village Kala Tibba, Tehsil Abohar, District Fazilka, vide Sale Deed No.120 dated 07.04.2011. At the time of execution and registration of the sale deed, the nature of the land stood recorded in the revenue record as “Nehri agricultural” and the petitioner paid stamp duty accordingly on the basis of the prevailing collector rates. Vide another Sale Deed No.121 dated 07.04.2011, the petitioner purchased land measuring 16 Kanals and 3 Marlas. At the time of registration of the sale deed, the petitioner also furnished a declaration, as required under the notification dated 28.01.2011, stating that the land would be used for agricultural purposes. Subsequently, during audit proceedings, an objection was raised in respect of Sale Deed No.120, which resulted in issuance of notice to the petitioner under Section 47-A of the Stamp Act. After granting due opportunity of hearing, the Collector passed order dated 21.10.2014 directing the petitioner to deposit ₹5,81,000/- towards deficiency in stamp duty along with interest of ₹2,46,408/-. The statutory appeal preferred against the said order was dismissed by the Commissioner vide order dated 11.02.2016, giving rise to the present writ petition.

6. Having considered the rival submissions and examined the record, this Court is of the considered view that the impugned orders cannot sustain judicial scrutiny and warrant interference. The prime reason for drawing this conclusion is that, on the date of execution and registration of the sale deed, the land in question stood recorded as “Nehri agricultural” in the revenue record and was being used for agricultural purposes. It is also undisputed that the petitioner obtained change of land use after registration

of the sale deed and converted the land for commercial purposes. However, the authority proceeded to reassess the stamp duty by taking into consideration subsequent conversion of the land from agricultural to commercial use and the consequential increase in the potential value of the land. Such an approach is contrary to the scheme of the Stamp Act. The authority is required to assess the actual consideration or the market value of the land as it existed on the date of execution and registration of the sale deed and cannot determine the stamp duty by taking into account the future potential or prospective use of the land.

7. The aforesaid view stands fortified by the judgment of the Hon'ble Supreme Court in ***"State of U.P. and others vs. Ambrish Tandon and another", 2012(1) R.C.R. (Civil) 865,*** wherein it was held that merely because the property is being used for commercial purpose at the later point of time may not be a relevant criterion for assessing the value for the purpose of stamp duty. The nature of user is relatable to the date of purchase and it is relevant for the purpose of calculation of stamp duty. The relevant observations of the Supreme Court are reproduced hereunder:

> *"8. We have already held that it is the grievance of the respondents that the orders were passed by the Additional Collector on a public holiday. Regarding the merits though the Collector, Lucknow made a surprise site inspection, there is no record to show that all the details such as measurement, extent, boundaries were noted in the presence of the respondents who purchased the property. It is also explained that the plot in question is not a corner plot as stated in the impugned order as boundaries of the plot mentioned in the freehold deed executed by Nazool Officer and in the sale deed dated 16.04.2003 only on one side there is a road. It is also demonstrated that at the time of execution of the sale deed, the house in question was used for residential purpose and it is asserted that the stamp*

duty was paid based on the position and user of the building on the date of the purchase. The impugned order of the High Court shows that it was not seriously disputed about the nature and user of the building, namely, residential purpose on the date of the purchase. Merely because the property is being used for commercial purpose at the later point of time may not be a relevant criterion for assessing the value for the purpose of stamp duty. The nature of user is relatable to the date of purchase and it is relevant for the purpose of calculation of stamp duty. Though the matter could have been considered by the Appellate Authority in view of our reasoning that there was no serious objection and in fact the said alternative remedy was not agitated seriously and in view of the factual details based on which the High Court has quashed the order dated 27.09.2004 passed by the Additional District Collector, we are not inclined to interfere at this juncture."

8. The aforesaid principle has subsequently been followed by a Coordinate Bench of this Court in ***"ARC Bio Fuel Pvt. Ltd. vs. State of Punjab and others", 2023(2) R.C.R. (Civil) 245***, wherein it was held that the nature of user is relatable to the date of purchase and it is that date that would be relevant for the purpose of calculation of stamp duty and not any date subsequent thereto. The relevant observations are extracted hereunder:-

"5. I have heard learned counsel for the parties and have gone through the pleadings of the parties as well as the case law cited.

6. Admittedly, on the date when the land in question was purchased by the petitioner, it was an agricultural land and the stamp duty was paid as per the Collector rate prevalent at that point of time. Thereafter, the petitioner obtained CLU for setting up a bio gas industry from the Town & Country Planning Department, which was duly granted to the petitioner. Respondent No.2, while remanding the matter, observed that "issue in this case is as to whether the land in dispute is agricultural in nature or commercial in nature.". whereas, the question that ought to have been decided should have been, as to what nature of the land was when the same was purchased? In fact, the nature of user is relatable to the date of *purchase and it is that date that would be relevant for the purpose of calculation of stamp duty and not any date subsequent thereto. The Supreme Court in Ambrish Tandon's case (supra), while deciding the similar issue held as under:-*

> *"...The impugned order of the High Court shows that it was not seriously disputed about the nature and user of the building, namely, residential purpose on the date of the purchase. Merely because the property is being used for commercial purpose at the later point of time may not be a relevant criterion for assessing the value for the purpose of stamp duty. The nature of user is relatable to the date of purchase and it is relevant for the purpose of calculation of stamp duty..."*

9. There is yet another reason which renders the impugned orders unsustainable. The notification dated 28.01.2011, which was relied upon by the authority for imposing enhanced stamp duty liability upon the petitioner and required disclosure of the proposed future use of the land through an affidavit, had been stayed by a Division Bench of this Court vide interim order dated 18.11.2013 passed in CWP-24156-2013. The said notification was thereafter withdrawn by the State Government vide instructions dated 03.04.2014, and the impugned order dated 21.10.2014, directing payment of enhanced stamp duty, was passed after such withdrawal. **Consequently, the impugned orders cannot be sustained and are hereby set aside.**

10. From the perusal of the interim orders passed by this Court, it is evident that the petitioner has already deposited the enhanced stamp duty subject to the final outcome of the writ petitions. Accordingly, the petitioner shall be at liberty to submit an appropriate application before the Collector seeking refund of the excess amount deposited. In the event such an application is filed, the Collector shall refund the excess amount to the

petitioner within a period of 15 days.

11. Both writ petitions are allowed in the above terms.

12. Pending applications stand disposed of accordingly.

13. A photocopy of this order be placed on file of connected case.

(KULDEEP TIWARI)
JUDGE

July 14, 2026
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No