IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.12976 of 2002

M/s.Gem Holiday Resorts Ltd.,
Rep. by its Managing Director,
Mr.S.R.Asaithambi,
No.76, Cathedral Road,
Chennai 600 006.

... Petitioner

-Versus-

1. The Principal Commissioner &
   Commissioner of Land Reforms,
   Chepauk, Chennai 600 005.

2. The Assistant Commissioner
   Urban Land Tax,
   Tambaram,
   69, Sannadhi Street,
   Alandur.

3. The Special Tahsildar,
   Urban Land Tax (Collection),
   Tambaram Taluk,
   Tambaram.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the proceedings dated 15.12.2000 vide Ref. Na.Ka.2276/98 and the demand notice of the 3rd respondent dated 01.12.2001 in ULT.Case No.1/1401/Cantt. Pallavaram as confirmed by the 1st respondent by order dated 04.01.2002 in Rc./17996/01/C2 in respect of land in S.No.11/2 of Cantonment Pallavaram Village and to quash the same.

For Petitioner : Mr.V.Ramesh

For Respondents : Mr.Manoharan Sundaram, AGP (T)

ORDER

Challenging the impugned order dated 15.12.2000 made in Na.Ka.2276/98 by the 2nd respondent and the consequential demand notice of the 3rd respondent dated 01.12.2001 in ULT.Case No.1/1401/Cantt. Pallavaram as confirmed by the 1st respondent by order dated 04.01.2002 in Rc./17996/01/C2 in respect of land in S.No.11/2 of Cantonment Pallavaram Village, the petitioner is now before this court with this writ petition.

2. The petitioner company claims to be the owner of the land measuring to an extent of 1.65 Acres [29 grounds and 1680 square feet] comprised in S.No.11/2 at Cantonment Pallavaram Village by virtue of sale deed dated 26.04.1991 from one Smt.Sampathbai Oswal Jain. While so, the entire land was assessed to urban land tax in the name of Smt.Sampath Bai Oswal Jain by order dated 30.03.1994. When the said order came to be questioned, the 1st respondent by order dated 22.12.1998 allowed the revision and held that the land purchased by the petitioner measuring an extent of 1.65 Acres was only a horticultural land and the 2nd respondent was directed to assess the land in the name of the correct owners and pass appropriate orders.

3. The petitioner further states that thereafter all the attempts made by the company to get the revenue records in their favour have become futile and the 3rd respondent refused to issue adangal extract on the ground that urban land tax is due and payable by Smt.Sampathbai Oswal Jain and another. According to the petitioner, no notice or order what so ever was received by its vendor. While so, notice in question came to be issued demanding a sum of Rs.2,91,153/- being the urban land tax payable for the Fasali year 1401 to 1411. When it was taken on revision, the 1st respondent by order dated 04.01.2002 confirmed the order of the 2nd respondent and the consequential demand notice of the 3rd respondent. It is the said order, now, under challenge in this writ petition.

4. Heard both sides and also perused the records carefully.

5. Originally, by order dated 22.12.1998, the 1st respondent namely, the Principal Commissioner and Commissioner of Land Reforms, Chennai, set aside the order of assessment dated 20.03.1994 passed by the 2nd respondent to the following effect:-

> "6. In view of my above findings, I hereby set aside the assessment order passed in the C.No.1/1401 dated 20.03.1994 and the case is remitted back to the Asst. Commr.

> Tambaram with the direction to verify the village accounts, do denovo enquiry, visit the spot, find out the ownership, with reference to documents, and also get the records from the petitioner narrated above, and pass fresh assessment order in the name of correct owners before 15.01.1999 as per the provisions of the Act. The Assistant Commissioner, Tambaram, is requested to acknowledge the receipt of this proceedings by return of post.
>
> 7. The interim stay granted is hereby vacated.
>
> 8. The Tahsildar, Tambaram, is hereby directed to reduce the demand of Rs.2,11,564/- (26433 X 8 = 211464 + Penalty Rs.100) from the total demand and raise the fresh demand as per the assessment order to be issued by the Assistant Commissioner (ULT), Tambaram."

Thereafter, the 2nd respondent issued fresh notices to the petitioner for appearance as well as for personal hearing. Upon receipt of notice, despite several opportunities, no such appearance was made by the petitioner and hence, by order dated 15.12.2000, the 2nd respondent confirmed the levy and on revision, the same was dismissed by the 1st respondent on 04.01.2002 observing that the CRP filed by the erstwhile owner related to the subject lands was pending. But, the fact remained that the said CRP No.762 of 1983 was disposed much earlier on 07.01.1988 itself and without considering the same, the 1st respondent passed a non speaking order. In view of the above, I am of the considered view that the impugned order deserves interference on the sole ground that the 1st respondent without any justification has simply passed a non speaking order confirming the order of the 2nd respondent and the matter needs to be remitted back for fresh consideration.

6. In the result, the writ petition is disposed of. The impugned order dated 04.01.2002 is set aside and the matter is remitted back to the 2nd respondent for passing appropriate orders afresh after affording due opportunity to the petitioner within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(Records)

//True Copy//

Sub Assistant Registrar

kmk

To

1. The Principal Commissioner &
   Commissioner of Land Reforms,
   Chepauk, Chennai 600 005.

2. The Assistant Commissioner
   Urban Land Tax, Tambaram,
   69, Sannadhi Street, Alandur.

3. The Special Tahsildar,
   Urban Land Tax (Collection),
   Tambaram Taluk, Tambaram.

+1cc to Mr.V.Ramesh, Advocate, S.R.No.50868
+1cc to the Special Government Pleader(Taxes), S.R.No.50879

W.P.No. 12976 of 2002

KK(CO)
CA(08/10/2015)