IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP.No.15703/2002

Vanniaperumal Charities of Virudhunagar
represented by its Managing Trustee
Chennai-11 ...Petitioner

Vs

1.The Principal and Commissioner of Land Reforms
Chepauk, Chennai-5

2.The Assistant Commissioner, Urban Land Tax
Chennai-29 ...Respondents

3.

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India, for the relief as stated therein.

For Petitioner : Mr.Subbiah

For Respondent : Mr.S.Manoharan Sundaram

ORDER

This Writ Petition is filed to issue a Writ of Certiorari, to call for the records relating to the order dated 3.1.2002 passed in B1/20373/2000 on the file of the 1st Respondent, confirming the order dated 22.11.1994 passed in C.No.6/BK.No.16/Perambur/1401 on the file of the 2nd Respondent and to quash the same.

2. The case of the Petitioner is as follows:-

a. The petitioner owns land to an extent of 09.2276 acre in Survey No.269/69 of Perambur Village and the same is assessed to Urban Land Tax under the Tamil Nadu Urban Land Tax Act 1966 as amended by Act 1 of 1992. The assessment to the Urban Land of the petitioner has been done by the 2nd Respondent herein under Section 10 of the Act in the year 1994. Before determining the market value of the property, a notice was issued to the petitioner and the petitioner

WEB COPY

appeared for the enquiry on 31.10.1994 for determination of the market value of the Urban Land for the purpose of the Tax payable to the said lands. The Urban Land Tax is levied from the fasli 1401 onwards with respect to the market value as on 1.7.1981 by the second respondent at Rs.29,000/- per ground. The market value of the property was determined, taking a data land in T.S.No.326/86, which was sold and the document has been registered on 30.11.1981. Based on the determination of the market value of the property under Section 6 of the said Act, the second respondent fixed the Urban Land Tax payable by the petitioner for the lands at Rs.1,348/- per fasli and same has been levied from the fasli 1401 by an order dated 22.11.1994. The petitioner has also paid the Urban Land Tax as determined by the second respondent and continued to pay for the subsequent fasli years. While so, the second respondent has revised the Urban Land Tax by an order dated 12.12.1997 fixing the market value at Rs.70,000/- and arriving the tax at Rs.4,770/- per fasli. The second respondent by the same order revised the order issued by him earlier dated 12.12.1994.

b. According to the Petitioner, the 2nd Respondent does not have such power to revise the order earlier passed by him unless there is an error apparent on the face of the record. Hence, the petitioner preferred a revision under Section 30 of the said Act before the first respondent. The first respondent by the impugned order dated 3.1.2002, without considering the legal issues raised by the petitioner, dismissed the Revision Petition. Pending the proceedings before the first respondent pursuant to an order dated 22.10.2001, the petitioner has paid 50% of the demand made by the second respondent. Thereafter, the first respondent had taken the revision preferred by the petitioner for enquiry. However, in an erroneous approach, the first respondent has dismissed the revision preferred by the petitioner. Hence, this Writ Petition has been filed.

3. The Respondents filed a counter affidavit, wherein it is averred as follows:-

a. The land measuring 9 grounds 2276 sq.ft, in T.S.No.269/69, Block-16 of Perambur Village was assessed to Urban Land Tax in the name of the petitioner levying Rs.1,348/- per fasli by order dated 22.11.1994 from Fasli year 1401 on determining the market value at Rs.29,000/- per ground. Subsequently, on 12.12.1997 in accordance with the Amended Act 1991, the above assessment order was revised, fixing the market value at Rs.70,000/- per ground and levying tax of Rs.4,770/- per fasli with effect from Fasli year 1401. As against the same, the Petitioner filed a revision before the 1st Respondent on 21.12.2000 and the same was rejected as

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

devoid of merits by the impugned order dated 3.1.2002, observing as follows:-

> "As the earlier market value of Rs.29,000/- per ground was fixed wrongly by the Assistant Commissioner, a notice was issued in Form-4C under Section 11(1) with Section 7-D and 40-A of the Act to Tvl.Vanniaperumal Charities of Virudhunagar to revise the market value at the rate of Rs.70,000/- for the land in Bk-16, S.No.269/67 measuring an extent of 9 ground 2276 sq.ft, with a request to lodge any objection before the Assistant Commissioner within 15 days from the date of issue of the Form-4C notice and also fixed the hearing dated on 23.06.1997. This notice was served to one Thiru.Ramasamy, Watchman of the Charities on 9.6.1997. As no one appeared for enquiry, or sent any records etc., it was taken that there was no objection to pass revised order adopting the market value of Rs.70,000/- per ground as on 1.7.81 against Rs.29,000/- per ground as already wrongly fixed. Therefore, the Assistant Commissioner of Urban Land Tax, Tondiarpet has passed assessment order on 12.12.97."

b. The Petitioner holds land in S.No.269/67, Block-16 of Perambur Village to an extent of 9 grounds 2276 sq.ft. and the assessment order was passed in ULT Case No.6/Block-16/Perambur/1401, dated 22.11.94, levying Urban Land tax to the tune of Rs.1,348/- per fasli from Fasli year 1401 onwards. Later, in accordance with Amended Act 1991, the market value as on 1.7.81 was adopted and worked out and accordingly, the Urban Land Tax was levied from Fasli 1401 onwards based on the sale of land measuring an extent of 1000 sq.ft., in S.No.326/86 for a sum of Rs.12,000/-, which works out to Rs.28,800/- per ground. Later, it was found that the sales statistics gathered for the Blocks 16, 17 & 20 that the above sale was not considered as this relates to the sale of land with structure, which is wrong. Hence, the sale of an extent of 1200 sq.ft., in S.No.215/5 for Rs.35,000/- was taken and as the rate was considered reasonable, the market value for the case land as on 1.7.1981 was fixed at Rs.70,000/- per ground under Section 10(2)(b) of the Tamil Nadu Urban Land Tax Act, 1966. Hence, to revise the assessment, Form 4-C notice was served to the Urban Land Owner on 4.6.1997 to appear for enquiry. But, the Urban Land Owner did not appear for enquiry and not sent any letter along with documents. The Urban Land Owner filed revision petition before the 1st Respondent after a lapse of three years from the date of passing assessment order. Hence, on the basis of records available revised

WEB COPY

assessment order was passed in ULT Case No.6A/Bk-16/Per/1401, dated 12.12.1997 determining the market value at Rs.70,000/- per ground. Hence, this Writ Petition is liable to be dismissed.

4. The learned counsel for the Petitioner contended that the first respondent ought to have held that the procedure adopted by the second respondent in determining the market value of the property is totally against the procedure contemplated under Sections 10 and 11 of the said Act and that the order passed by the second respondent on the very face of it is not sustainable in as much as the same does not contain the reasons for arriving market value at Rs.70,000/- per ground and that the impugned order has been passed without any valid reasons. The learned counsel submitted that the land in question has been taken up for determination of the market value for the fasli year 1401 as early as in the year 1994 and the same has been concluded by fixing the market value at Rs.29,000/- per ground and therefore, the amount as fixed by the order dated 12.12.1994 cannot be taken up again and that the order fixing the Tax by the second respondent is not correct for the reason that there is no finding as to how and on what basis the market value of the land came to be determined and that the second respondent has no power to review his own order and there is no error apparent on the face of the record warranting the rectification under Section 32 of the said Act by the second respondent and prayed for quashing of the impugned order.

5. The learned Additional Government Pleader for the Respondent submitted that the revised assessment was worked out in accordance with Amended Act, 1991 and the the order has been passed with reference to Section 6 of the Tamil Nadu Urban Land Tax Act 1966 as amended in 1991 and that the market value has been determined with reference to the sales statistics gathered from Sub-Registrar Office and passed order for the extent owned by the petitioner. The market value has been correctly fixed taking into account all relevant factors and the sales statistics gathered from the Sub-Registrar's Office. The Assistant Commissioner has passed revised order with reference to the provisions of the Act and with reference to Section-32 of the Act and prayed for dismissal of this Writ Petition.

6. This court heard and considered the submissions made by the learned counsel on either side and also perused the materials placed on record.

WEB COPY

7. Under Section 7-D of the Amended Act 1991, the Urban Land Owner holding excess of two grounds is liable to file the return on or before 16.11.1992, as published in the Tamil Nadu Government Gazette Page 582, Part-II, Section-2, dated 14.10.92. The petitioner did not file the return within the stipulated time. Hence, a notice in Form-4C was served on 4.6.97 for enquiry on 23.6.97, calling for his objections for raising the market value @ Rs.70,000/- per ground as on 1.7.81 under Section 6 of the Tamil Nadu Urban Land Tax Amended Act, 1991. In all cases where the revised Urban Land Tax levied based on the market values as on 1.7.81 exceeds 5 times that of the tax already levied based on market value as on 1.7.71, then the revised Urban Land Tax shall be limited to 5 times that of the existing tax levied with reference to market value as on 1.7.71. Hence, the revised assessment was worked out in accordance with Amended Act, 1991. The order has been passed with reference to Section 6 of the Tamil Nadu Urban Land Tax Act 1966 as amended in 1991. The market value has been determined with reference to the sales statistics gathered from Sub-Registrar Office and passed order for the extent owned by the petitioner. The 2nd Respondent has passed revised order with reference to Section-32 of the Act. For all these reasons, there is no scope to interfere with the said order. Hence, this Writ Petition is liable to be dismissed and accordingly, it is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Srcm

To:

1.The Principal and Commissioner of Land Reforms,
Chepauk, Chennai-5.

2.The Assistant Commissioner,
Urban Land Tax, Chennai-29.

WP.No.15703/2002

RSK (CO)
PSI (20.10.2015)

सत्यमेव जयते
WEB COPY
https://hcservices.ecourts.gov.in/hcservices/