THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.M.S.A.No. 12 OF 2011

JUDGMENT:

The appellant aggrieved by the order dated 04-03-2004 in M.A.No. 69 of 2001 on the file of the Court of Chief Judge, City Small Causes Court, Hyderabad (for short, 'the trial Court'), preferred the present appeal.

The appellant is carrying on banking business having its local Head Office at Bank Street, Hyderabad. The respondent corporation, proposing to assess vacant land tax, fixed average rental value at Rs.51,45,12,000/-; assessed tax at Rs.51,45,120/- with effect from 01-04-1999 at the rate of 1% of capital value and issued a special notice in compliance with Section 220 (2) the Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act of 1955'), on 13-01-2000. On receipt of the same, the appellant filed objections on 17-01-2000 questioning the proposed enhancement on the ground that area of the vacant land is not more than the limit prescribed. After hearing the appellant, the respondent corporation reduced vacant land tax to Rs.19,19,894/- with effect from 01-04-1999.

Aggrieved by the revisional order passed by the respondent corporation dated 16-03-2001 in Letter No. TC6/MCH/2000/287 for the premises bearing D.No. 4-3-170/1, Bank Street, Hyderabad, the appellant preferred appeal in M.A.No. 69 of 2001 before the trial Court and the same was partly allowed directing the respondent corporation to collect tax in respect of vacant land at 0.50% of capital value with effect from 01-10-2000.

Aggrieved thereby, the present appeal is preferred on various grounds mainly contending that both the revisional authority and the trial Court did not consider the actual extent of vacant land appurtenant to the building and fixed tax on the basis of capital value erroneously. Both the revisional authority and the trial Court did not consider whether or not the vacant land is in excess of the land permitted under Section 282 of the Act of 1955; both the authorities did not assign any reason for initially assessing tax at Rs.51,45,120/- and reducing the same to Rs.19,19,894/-; and, in the absence of any reason either in the order passed by the revisional authority or by the trial Court, the same are liable to be set aside since they are bereft of reasons.

Learned counsel for the appellant mainly urged before this Court that, in the absence of reasons either for reduction or confirmation of tax, the order is illegal and the same is liable to be set aside.

Considering the contentions of learned counsel for the appellant and perusing oral and documentary evidence, the only substantial question of law framed by this Court is thus:

> *"Whether the order passed by the revisional authority is supported by any reasons for confirming or reducing the tax proposed to be enhanced? If not, whether the order be sustained?"*

Undoubtedly, the order passed by the revisional authority is not supported by any reasoning for confirming tax assessed on vacant land and it is even not known whether the appurtenant vacant land is exceeding the limit prescribed under the provisions of the Act of 1955. In the absence of any reasons, confirmation of proposed tax by the revisional authority and reducing the same to 0.50% in the appeal are illegal.

This Court had an occasion to deal with a similar situation in ***Smt. Chennupati Swaroopa Rani Vs. Vijayawada Municipal Corporation, Rep. by its Commissioner, Vijayawada***[1], wherein this Court relied on ***Jampa Kutumba Lakshmi Vs. State of A.P., Rep. by Principal Secretary***[2] to hold that endorsement was held unsustainable as no reasons, in support of such demand, were found. This Court also relied on ***S.Shakuntala Vs. Additional Commissioner, MCH***[3], to hold that, under sub-section (3) of Section 223 of the Act of 1955, the result of disposal of the complaint should be communicated and that disposal of complaint by the corporation is bound to contain a reasoned order as Section 282 of the Act of 1955 entitles the assessee to challenge the order in an appeal before a judge as defined under the Act of 1955. In the instant case, the endorsement is silent as to confirmation of the proposed enhancement. If the principle laid down in the judgments referred *supra* is applied to the present facts of the case, the order passed by the revisional authority is against the principles of natural justice so also reduction of rate of tax from 1% to 0.50% is without any reasoning. The mandate of both the decisions, referred to above, therefore, compels this Court to set aside the order passed by the revisional authority and the trial Court by allowing the appeal while remitting the matter back to the respondent corporation for due consideration of objections and pass appropriate reasoned order on the objections and communicate the same to the appellant.

The appeal is, accordingly, allowed and the respondent corporation is directed to comply with the directions, as above, within a period of three (3) months from the date of receipt of a copy of this judgment. The property tax being paid by the appellant during pendency of the proceedings before the trial Court as well as before this Court shall abide by result of the final orders to be passed by the Commissioner as directed above and the said amount shall be adjusted while issuing demand notice, if any, by the respondent corporation.

Miscellaneous petitions pending in this appeal, if any, shall stand closed in consequence. No order as to costs.

M.SATYANARAYANA MURTHY, J.

Date: 28th July, 2015.

JSK

[1] C.M.S.A.No. 53 of 2007

[2] W.P.Nos. 30390 & 31009 of 2012

[3] 1996 (2) ALD 283 (DB)