HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.11783 OF 2006

ORDER: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard Sri Y.V.Ravi Prasad and Sri S.Ramachander Rao, learned Senior Counsel for the petitioner and 2nd respondent respectively.

Tirumala Tirupati Devasthanam/petitioner prays for Mandamus declaring the action of Commissioner, Tirupati Municipal Corporation, Tirupati/2nd respondent in assessing and demanding property tax on Srinivasam Complex and proceedings Rc.No.3929/2004/A5 dated 27.05.2006 of the 2nd respondent as arbitrary, without jurisdiction and violative of Section 88 of the
A.P. Municipalities Act, 1965.

At the outset, it is recorded that having regard to the limited irregularity or illegality pointed out against proceedings Rc.No.3929/2004/A5 dated 27.05.2006 and the demand notice dated 22.05.2006 signed on 08.08.2006, we are not proposing to examine the merits of the matter. With the consent of the learned counsel appearing for the parties, we are satisfied that the following order would meet the ends of justice.

The 2nd respondent levied and demanded property tax on "Srinivasam Complex", owned and administered by the petitioner. The petitioner through letter Rc.No.Prop.3/8701/AEO(Prop.) 2004 dated 30.04.2004 and 12.07.2004 filed revision against the
said demand. Through Rc.No.3929/2004/A5 dated 27.05.2006,
the revision petition filed by the petitioner was rejected. The order reads thus:

"With reference to the letters (revision petition) cited, I submit that the hearing on the revision petition was posted on 27.09.2004 by the Municipality Sri P.M.V.Sesha Reddy, Superintendent (AEO) property cell T.T.D has attended for hearing.

On hearing the grounds the then Commissioner passed the following orders on the above revision petition.

> "It is a chargeable guest house the management is charging of Rs.400/- to 600/- per room property tax cannot be exempted under 88(1) (b) since the amount collected for occupation is not used only for charitable purpose".

On the above I submit that once orders passed on revision petition by the competent authority is a final one. If the orders on revision petition is not satisfied the appeal should be preferred before the Appelate Commissioner within (15) days from the date of receipt of this letter duly paying the taxes as per the Appeal preferring rules under Schedule II Taxation and Finance rules of APM Act 1965."

The grievance of petitioner is that the 2nd respondent on 22.05.2006 has raised a comprehensive property tax demand on Srinivasam Complex for the half yearly ending from 30.06.2006
till 30.09.2006, but the bill was signed on 08.06.2006. According to petitioner, the revision is not considered in accordance with law or fact situation of the case, but rejection of revision is pre-determined. The petitioner places strong reliance upon the judgment of the Hon'ble Supreme Court in Civil Appeal No.568 of 1969 dated 06.02.1974 to contend that the choultries established by petitioner are exempt from property tax. According to the petitioner,
the choultries run by the petitioner come within the scope of Section 88 of the Municipalities Act and no property tax can be levied. The learned senior counsel for 2nd respondent submits that *prima facie* from the material placed by the petitioner it appears that even before the revision petition filed by the petitioner is considered and decided, a demand is raised and same appears to be an irregularity in disposal of revision.

The proceedings dated 27.05.2006 and demand notice dated 22.05.2006, signed on 08.06.2006, are set aside and the matter is remitted to 2nd respondent for consideration and disposal of revision pending in Rc.No.3929/2004/A5 dated 27.05.2006 within a period of three months from the date of receipt of a copy of this order. It is needless to observe that the 2nd respondent refers to the legal and factual objections raised by the petitioner and passes orders in accordance with law, for the petitioner if finally aggrieved by the adjudication of the 2nd respondent has remedy of appeal under the Act.

Writ petition is ordered as indicated above. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date:30.11.2015

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