HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

W.P. No. 1360 OF 2015

ORDER :

This writ petition is filed aggrieved by the notice dated 26.01.2015 wherein it is stated that the petitioner is due an amount of Rs.39,05,870/- towards property tax up the year 2014-15 in respect of premises bearing No.6-9-15/NR (PTIN 1140602408) and if the same is not paid within 48 hours i.e., on or before 29.01.2015, essential services such as water supply, electricity, drainage etc., will be ordered for disconnection under the provisions of 2(2) of Section 269 of Greater Hyderabad Municipal Corporation Act, 1955 as amended in the Act 3 of 1994.

2. The case of the petitioner is that the petitioner-Trinity Metal Industries situated in one acre of land was partitioned between the proprietor of the petitioner company and his father and his brother Mr.Mahender Kumar Agarwal. It is stated that the respondent Corporation is imposing tax for the entire one Acre and calling upon the petitioner to pay the same instead of dividing it between two owners. During the year 2014, the respondent demanded Rs.13,17,986/- towards property tax from the petitioner without measuring the area and without revising the property tax. It is stated that against the same W.P.No.1044 of 2014 is filed. This Court, by order dated 21.01.2014 directed the Commissioner, GHMC to pass orders on the property tax after hearing the petitioner, however, the respondent-Corporation has not complied with the said order. Aggrieved by the same, petitioner filed M.A.No.141 of 2014 before the Chief Judge, City Small Causes Court, Hyderabad to revise the property tax, but the respondents have not filed counter so far.

3. Heard learned counsel for the petitioner as well as learned

Standing Counsel for the respondent-Corporation.

4. It is the case of the petitioner that without complying with the orders passed in W.P.No.1044 of 2014 on 21.01.2014 and without filing counter in M.A.No.141 of 2014 before the Chief Judge, City Small Causes Court, Hyderabad, the respondents are demanding Rs.13,17,986/- towards property tax, which is arbitrary.

5. When the matter was listed for hearing on 28.01.2015, this Court granted *Status quo* obtaining as on that day on condition of the petitioner paying tax before revision of tax is undertaken in cash and posted the matter today for hearing.

6. Learned counsel for the petitioner states that even when the petitioner went to pay the property tax in cash, the respondents have not received the same as the orders from this Court have not been produced.

7. Learned Standing Counsel for the respondent Corporation produced order dated 01.06.2014, wherein the tax has been determined as per the orders passed by the Court in W.P.No.1044 of 2014 and also produced record showing that the petitioner was issued notice before undertaking revision, as they have not received any objection, as such, same was confirmed under Section 223(3) of Municipal Taxation of G.H.M.C.Act, 1955.

8. The grievance of the petitioner in the writ petition appears to be that the respondents have issued impugned notice without following the order passed earlier by this Court in W.P.No.1044 of 2014 on 21.01.2014 and that no orders are passed in M.A.No.141 of 2014 before the Chief Judge, City Small Causes Court, Hyderabad. However, the proceedings dated 01.06.2014 goes to show that the tax is pertaining to the year 2013-14 and the endorsement on the impugned order also goes to show that it is signed by the petitioner though the same is disputed by the learned counsel for the petitioner. The only grievance in the writ petition is that the respondents are not

revising the tax based on the area under the possession of the petitioner. However, a perusal of the proceedings dated 01.06.2014 shows that the respondents have calculated the tax, after inspection of the premises of the petitioner. It is not disputed by the learned counsel for the petitioner that the petitioner has no alternative remedy against the assessment of tax before the respondent Corporation. When once the respondents have complied with the order passed by this Court, it cannot be said that the action initiated against the petitioner is any way illegal or arbitrary. It is for the petitioner to challenge the proceedings dated 01.06.2014 before the appropriate authority and obtain orders. Though, learned counsel for the petitioner submits that the tax was assessed for entire one acre instead of half acre and same was not assessed properly, it is not for this Court to decide and assess the tax by exercising the power under Article 226 of the Constitution of India. It is for the petitioner to choose effective alternative remedy by way of appeal against the assessment of tax in respect of the property of the petitioner and this Court is not inclined to go into factual aspects to decide about the correct tax to be paid by the petitioner, as such, there is no merit in the writ petition.

Accordingly, the writ petition is dismissed. However, it is open for the petitioner to prefer appeal before the competent Court and obtain appropriate orders. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any pending in this writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

30.01.2015.
KVS

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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Date: 30-01-2015

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