IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 17315 of 2015

Date of Decision: 20.8.2015

Manmohan Singh Chahal and another

....Petitioners.

Versus

State of Punjab and another

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.

PRESENT: Mr. Vivek Chauhan, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the demand notice dated 12.12.2014 (Annexure P-6) and notice dated 13.3.2015 (Annexure P-9) issued by respondent No.2 vide which the demand of ₹ 15,26,219/- as property tax for the financial year 2014-15 has been raised. Further, a writ of mandamus has been sought directing the respondents not to raise the demand of ₹ 15,26,219/- as property tax for the financial year 2014-15 in view of exemption list provided in the property tax form (Annexure P-3) of the respondent No.2 as well as in the list (Annexure P-4) on its website.

2. Petitioner No.2 was granted certificate of registration dated 23.5.2007 (Annexure P-1) as a Charitable Trust (in short “the Trust”) by the Commissioner of Income Tax, Ludhiana in the name of Baba Ishar Singh (Nanaksar) Senior Secondary Public School, D-Block, BRS Nagar, Ludhiana. It was earlier registered as Baba Ishar Singh (Nanaksar)

Senior Secondary Public School, D-Block, BRS Nagar, Ludhiana and had changed its name to Baba Ishar Singh (Nanaksar) Charitable Education Trust, Bhai Randhir Singh Nagar, D-Block, Ludhiana vide resolutions dated 10.4.2009 and 13.4.2009 and the same was duly incorporated and certified by the Registrar of Firms and Societies, Ludhiana vide letter dated 30.4.2009 (Annexure P-2). Respondent No.2 had imposed house tax in the year 2012 which was paid by the Trust for the year 2012-13 vide receipt No.40 and book No. 5963 dated 6.8.2013. In the year 2014, respondent No.2 amended its rules and started collecting property tax return from the buildings (residential or non-residential or otherwise) situated within its jurisdiction and issued a self assessment form (Annexure P-3) to the general public for filing the property tax return. Notification dated 31.12.2014 (Annexure P-3A) was also issued in this regard. The self assessment form (Annexure P-3) contains a list/category (Annexure P-4) of all those who were exempted from the property tax and in the said list, it was specifically provided that the Charitable and Philanthropic Institutes which were exempted under the Income Tax Act, 1961 were not assessed to the property tax. The petitioners while filing the property tax return for the year 2013-14 attached the certificate of its being a charitable institution along with certificate (Annexure P-1) issued by the Commissioner of Income Tax-III, Ludhiana and furnished the same online on 25.7.2014 (Annexure P-5). Respondent No.2 issued a notice dated 12.12.2014 (Annexure P-6) to the petitioners under Section 112-B(1) of the Punjab Municipal Corporation Act, 2013 for not furnishing the property tax return for the year 2013-14 and raised a demand of ₹ 15,26,219/-. The petitioners were asked to appear before respondent No.2 on 17.12.2014 at 10 AM.

In pursuance thereto, the representative of the petitioners visited the office of respondent No.2 who directed the petitioners to deposit the said amount of ₹ 15,26,219/- before 31.12.2014. The petitioners served a legal notice dated 22.12.2014 (Annexure P-7) followed by a reminder dated 12.3.2015 (Annexure P-8) upon respondent No.2 and the Joint Municipal Commissioner, Municipal Corporation, Ludhiana for withdrawal of the demand of property tax of ₹ 15,26,219/-, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that for the relief claimed in the writ petition, the petitioners have sent a legal notice dated 22.12.2014 (Annexure P-7) followed by a reminder dated 12.3.2015 (Annexure P-8) upon respondent No.2 and the Joint Municipal Commissioner, Municipal Corporation, Ludhiana, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the legal notice dated 22.12.2014 (Annexure P-7) followed by a reminder dated 12.3.2015 (Annexure P-8), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of two months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

August 20, 2015 **(RAMENDRA JAIN)**
gbs **JUDGE**