IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 16.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.4995 of 2014
&
W.P.Nos.8260 of 2015
&
M.P.Nos.1 of 2014 & 1 and 2 of 2015

W.P.No.4995 of 2014

Savithri Ammal @ Savithri Naidu .. Petitioner

Vs.

1. The Commissioner
   Coimbatore Municipal Corporation
   Coimbatore - 1

2. The Assistant Commissioner
   Central Zone
   Coimbatore Municipal Corporation
   Coimbatore-18

3. The Taxation Appellate Tribunal
   Rep by its Sub-Judge
   City Municipal Corporation
   Coimbatore .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records pertaining to impugned return dated 09.01.2014 in property tax appeal unnumbered filed by the petitioner in respect of property bearing Plot No.9 in a approved layout bearing approval No.T.P/D.T.P.277/64 admeasuring 11792 sq.ft or 27 cents 30 ½ sq.ft comprised in Survey Ward No.1, Block No.32, Old T.S.No.1381 part 1382/2 Tea Estate compound at Race Course, Coimbatore on the file of the 3rd respondent and quash the same and consequently direct the 3rd respondent to take the said appeal filed by the petitioner on file for disposal as per provisions of Coimbatore City Municipal Corporation Act, 1981.

W.P.No.8260 of 2015

Savithri Ammal @ Savithri Naidu .. Petitioner

Vs.

1. The Commissioner
Coimbatore Municipal Corporation
Coimbatore – 1

2. The Assistant Commissioner
Central Zone
Coimbatore Municipal Corporation
Coimbatore-18

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records pertaining to impugned order dated 09.02.2015 bearing Na.Ka.No.116/2015/A6(C) in respect of No.184/2 Race Course Road, Coimbatore – 641 018 vide Assessment No.7197196 passed by the 2nd respondent and quash the same and consequently direct the respondents 1 and 2 to receive the property tax arrears in respect of property bearing Door No.184/1, Race Course Road, Coimbatore-641 018 vide Assessment No.7197197.

For Petitioner : Dr.C.Ravichandran

For Respondents : Mr.R.Sivakumar

C O M M O N O R D E R

Heard Dr.C.Ravichandran, learned counsel for the petitioner and Mr.R.Sivakumar, learned counsel for the respondents.

2. Both the writ petitions have been filed by Tmt. Savithri Ammal @ Savithri. In W.P.No.4995 of 2014, the petitioner has challenged the return endorsement made by the Taxation Appellate Tribunal, Sub-Judge, City Municipal Corporation, Coimbatore returning the petitioner's appeal petition. It was filed against the Vacant Land Tax Assessment No.71992209 in respect of the properties at Door Nos.184/2 and 184/1, Race Course Road, Coimbatore. The petitioner had earlier approached this Court by filing another writ petition in W.P.Nos.34775 and 34776 of 2007.

3. Though the petitioner had challenged the proceedings of the Assistant Commissioner, Coimbatore Municipal Corporation dated 08.09.2007, the Court did not test the correctness of the said order on the ground that there is an alternative remedy available to the petitioner by way of an appeal before the Taxation Appellate Tribunal. Accordingly,

the writ petitions were disposed giving liberty to the petitioner to file an appeal before the Taxation Appellate Tribunal and if the petitioner prefers an appeal within a period of 15 days from the date of the order i.e., 01.07.2010, the Tribunal was directed to entertain the appeal and dispose of the same in accordance with law.

4. Admittedly, the petitioner did not prefer the appeal within the time stipulated by this Court, but has filed the appeal after a delay of more than 1156 days. The appeal memorandum has been returned primarily on two grounds, namely appeal has not been presented within the time stipulated in the order of the High Court dated 01.07.2010 and the petitioner has not complied with the mandatory condition to pre-deposit 50% of the demand.

5. Learned counsel for the petitioner elaborately made submissions on the merits of the matter and submitted that levy of Vacant Land Tax as per the assessment order dated 08.09.2007 is wholly illegal and unsustainable in law.

6. However, in my view, this issue cannot be considered at this juncture since the petitioner has challenged only the return endorsement made by the Appellate Tribunal. Admittedly, the petitioner has failed to abide the condition of pre-deposit 50% of the demand, which is a mandatory condition to entertain the appeal.

7. After some arguments, the learned counsel for the petitioner submitted that sometime may be granted to the petitioner to effect pre-deposit and re-present the appeal and the Tribunal may be directed to consider the appeal on merits.

8. Considering the fact that the respondent Corporation was unable to collect the Vacant Land Tax for almost a decade and the matter is lingering before the various judicial forums and the petitioner has been repeatedly approaching this Court, in order to give a quietus to the matter, this Court is inclined to grant one more opportunity to the petitioner to prefer the appeal subject to the compliance of mandatory pre-deposit condition.

9. Accordingly, W.P.No.4995 of 2014 is disposed of by directing the petitioner to re-present the appeal papers along with the deposit challan evidencing deposit of 50% of the tax demanded by the Corproation. While computing tax, if any Vacant Land Tax has been paid by the petitioner in the interregnum, the same shall be given credit and the balance shall be collected from the petitioner. If the said condition is complied with, then the Appellate Tribunal shall entertain the appeal without reference to limitation. The petitioner is granted 30 days time to comply with the condition. If the

petitioner fails to comply with the condition imposed by this Court within the time permitted, the benefit of this order will not enure to the petitioner and the respondent Corporation shall proceed to recover the arrears of tax.

10. In the light of the order passed in W.P.No.4995 of 2014, W.P.No.8260 of 2015 shall stand dismissed. No costs. Consequently, the miscellaneous petitions are closed.

After the above order was dictated, the learned counsel for the petitioner requested that to enable the petitioner to re-present the appeal, the original appeal papers which have been filed alongwith this writ petition may be directed to be returned by the Registry. Accordingly, the Registry is directed to return the original appeal papers.

gpa

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner
Coimbatore Municipal Corporation
Coimbatore - 1

2. The Assistant Commissioner
Central Zone
Coimbatore Municipal Corporation
Coimbatore-18

3. The Sub-Judge
The Taxation Appellate Tribunal
City Municipal Corporation
Coimbatore.

+ 2 ccs to Mr.R.Sivakumar, Advocate Sr Nos.33225 & 33226

KR/17/6/16

W.P.No.4995 of 2014
& W.P.Nos.8260 of 2015 &
M.P.Nos.1 of 2014 & 1 and 2 of 2015