IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 16.6.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25536 of 2015

Gurukul Lutheran Theological
College and Research Institute
Rep. by its Principal 94
Purasawakkam High Road
Kilpauk Chennai-7. ... petitioner

versus

1 Special Tahsildar
Urban Land Tax Purasawakkam Taluk
Chennai- 3.

2 The Assistant Commissioner
Urban Land Tax
Tondiarpet 409 E.V.R.
Periyar Road Aminjikarai
Chennai-29. ... respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent pertaining to Notice bearing R.C. No. Rc/A2/851/1997 dated 22.6.2015 and also Demand Notice bearing No.Nil for Rs.2 18 375 dated 7.7.2015 and Demand Notice bearing No.Nil for Rs.17 74 375 dated 7.7.2015 issued by the 1st Respondent herein to the Petitioner and quash the same.

For petitioner ... Mr.R.Ramesh

For respondents ... Mr.Manokaran Sundaram, A.G.P.

O R D E R

Heard Thiru.R.Ramesh, learned counsel for the petitioner and Thiru.Manokarna Sundaram, Additional Government Pleader for the respondents.

2. By consent of both sides, the Writ Petition is taken up for disposal.

3. The petitioner is an educational institution and the challenge in this Writ Petition is to the demand notice issued by the 2nd respondent dated 22.6.2015 followed by a demand for

payment of property tax for a sum of Rs.17,74,375/-. The impugned order has been challenged mainly on the ground of violation of principles of natural justice since the petitioner is said to have received the notice dated 22.6.2015 only on 1.7.2015 and without even giving 30 day's time and without affording an opportunity of hearing, the demand has been made. It is further submitted that the petitioner is entitled for exemption from the levy of urban land tax and in this regard, reference was also made to an order passed by this Court in W.P.No.14306 of 1997 dated 5.4.2004. The order reads thus :-

> 2. Learned counsel for the petitioner is not present. However, the learned Government Advocate appearing for the respondents would submit that the impugned notice was issued under the provisions of Tamil Nadu Urban Land Tax Act, only because the petitioner did not produce the exemption certificate. It appears that subsequently, the petitioner has produced the same and the learned Government Advocate submits that in view of the production of the exemption certificate, no further steps will be taken pursuant to the impugned notice.

4. The second respondent has stated in the counter affidavit that the lands were inspected and it was found that a portion of the exempted vacant land has been converted into a multi-storied building which would show that the petitioner has violated the provisions of the Act and therefore, it is liable to pay Urban Land Tax for the entire vacant land measuring 2118 sq.ft. Therefore, it is submitted that payment of Urban Land Tax is justified.

5. Considering the facts and circumstances of the case, this Court is of the view that the second respondent need not have rushed the matter as was done by him, especially when proceedings are pending from 1997 onwards. It is true that notice was issued on 22.6.2015. But the respondent has given only one week's time to the petitioner. Reasonable time would be between 15 to 30 days for the party to respond to the notice. It is worth mentioning here that the second respondent has called for seven documents. Therefore, the impugned demand notice is in violation of the principles of natural justice. However, the notice issued by the second respondent dated 22.6.2015 cannot be set aside as it is a valid notice, and the same being only a notice, calling upon the petitioner to produce documents. This Court cannot foreclose the entire issue at the threshold.

6. The Writ Petition is partly allowed and the impugned demand notice 22.6.2015 is quashed and the petitioner is directed to submit their reply to the said notice within a period of thirty days from the date of receipt of a copy of this order, enclosing all the documents, after which, the respondent

shall fix a date, for personal hearing of the authorized representative of the petitioner and thereafter, proceed and pass orders in accordance with law. No costs. Consequently, M.P.No.1/2015 is closed.

Sd/-
Assistant Registrar(VI)

//True Copy//

Sub Assistant Registrar

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To

1 Special Tahsildar
Urban Land Tax Purasawakkam Taluk
Chennai- 3.

2 The Assistant Commissioner
Urban Land Tax Tondiarpet 409 E.V.R.
Periyar Road Aminjikarai Chennai-29.

+1cc to the Government Pleader, S.R.No.33533

RK(CO)
EU(30/06/2016)