IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2016

Coram

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P.No.39331 of 2015
&
M.P.Nos.1 & 2 of 2015

Super Auto Forge Limited
Rep by its Deputy Managing Director
SIDCO Industrial Estate
Thirumudivakkam, Chennai - 600 044. ... Petitioner

Vs

1.Government of Tamil Nadu
Represented by its Secretary to Government
Rural Development Department
Fort St.George, Chennai - 600 009.

2.The President
Thirumudivakkam Panchayat
Thirumudivakkam, Chennai - 600 044. ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, to call for records pertaining to resolution dated 19.03.2012 passed by the second respondent and quash the said resolution dated 19.03.2012 and consequently directing the second respondent to fix the house tax for the petitioner's property bearing Plot Nos.AC-12 and AC-13 situated in Thirumudivakkam village, Sriperumbudur Taluk, Kancheepuram District, in accordance with Sections 172, 262 and schedule-I of the Tamil Nadu Panchayats Act, 1994 and Tamil Nadu Village Panchayat (Assessment and Collection of Taxes) Rules, 1999.

For petitioner .. Mr.P.Anbarasan

For Respondent .. Mr.Raja Perumal, G.A., for R1
Ms.M.E.Rani Selvam, A.G.P., for R2

O R D E R

Heard Mr.P.Anbarasan, learned counsel appearing for the petitioner, Mr.Raja Perumal, learned Government Advocate appearing for the first respondent and Ms.M.E.Rani Selvam, learned Additional Government Pleader appearing for the second respondent and with the consent of either side, the writ petition itself is taken up for final disposal.

2. The petitioner is a limited company having established its unit in SIDCO Industrial Estate, Thirumudivakkam Village, Sriperumbudur Taluk, Kancheepuram District. The petitioner would state that they have constructed a building measuring 5000 sq.ft., and factory shed measuring 64,200 sq.ft., The said buildings were assessed to tax by the second respondent and the tax was fixed at Rs.92,480/- per annum from 2006-07.

3. In this writ petition, the petitioner has challenged the resolution passed by the second respondent Panchayat, wherein an unanimous decision has been taken to increase the rate of tax to Rs.2/- per sq.ft.

4. From the counter affidavit, it is seen that except for paying the professional tax, the petitioner has not paid the property tax, even as per the pre-revised rate. Furthermore, as on date, it appears that there is no demand served on the petitioner, demanding enhanced tax amount. The notice of demand filed in the typed set of papers are the demands which have been issued prior to the impugned resolution.

5. The learned counsel appearing for the petitioner referred to Section 172 of the Tamil Nadu Panchayats Act, 1994 and submitted that in terms of Sub-section 1 of Section 172, the house tax shall be levied on all houses in every Panchayat Village on the basis on which such tax was levied in the local area concerned immediately before the commencement of this Act or on the basis of classified plinth area at the rates specified in Schedule I, as the Village Panchayat may adopt subject to the provisions of sub-section (3). Therefore, it is the endeavour of the learned counsel appearing for the petitioner to convince this Court that the house tax has to be assessed in terms of Section 172 of the Act and not as per the resolution passed by the second respondent Panchayat.

6. In my view, the present writ petition is absolutely premature and the petitioner cannot be aggrieved by the resolution passed by the second respondent Panchayat, since based on such resolution, no demand has been served on the petitioner. Further, such demand could have been served only after an inspection is conducted. Therefore, the challenge to

the impugned order has to be rejected on the ground that the writ petition is premature.

7. The learned counsel appearing for the second respondent submitted that the petitioner has not cleared the arrears of property tax, even as per the pre-revised rate. If that be so, for the petitioner to be entitled to any indulgence from this Court, the petitioner has to first clear the arrears of property tax as per the pre-revised rate adopted prior to the impugned order.

8. In the light of the above, the writ petition is dismissed with the following directions:

(i) The petitioner is directed to remit the entire arrears of property tax as per the pre-revised rate on which the tax was calculated prior to the impugned resolution, within a period of two weeks from the date of receipt of a copy of this order.

(ii) If the petitioner complies with the said direction, the second respondent is directed to inspect the petitioner's property and serve the provisional order of assessment on the petitioner and on receipt of such provisional assessment, the petitioner shall submit this objections within a period of two weeks therefrom and the second respondent shall consider the same and pass a final order of assessment of the property tax on the petitioner's property.

(iii) If the petitioner fails to comply with the direction regarding the payment of property tax at the pre-revised rate, within the time prescribed by this Court, the benefit of the order will not enure to the petitioner.

Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

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To

1.The Secretary to Government
Rural Development Department
Government of Tamil Nadu
Fort St.George, Chennai - 600 009.

2.The President
Thirumudivakkam Panchayat
Thirumudivakkam, Chennai - 600 044.

1 cc to Mr.P. Anbarasan, Advocate, Sr. 29065
1 cc to M/s.M.E. Rani Selvam, Advocate, Sr. 29061

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BVR (CO)
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