IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.36287 of 2003
and
WPMP.No.44041 of 2003

Carborandum Universal Limited,
Rep. By its Company Secretary,
"Tiam House", No.72, (Old No.28),
Rajaji Salai, Chennai – 600 001. ... Petitioner

Vs.

1. The Assistant Commissioner Urban Land Tax
   Madhavaram No.2, Vivek Nagar,
   Kolathur, Chennai – 600 099.

2. The District Revenue Officer,
   Tiruvallur District, Tiruvallur.

3. The Special Commissioner and
   Commissioner for Urban Land Tax,
   Chepauk, Chennai 600 005. ... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the first respondent in his proceedings Rc.3975/94/B dated 26.09.2003 issued on 07.10.2003 and received by the petitioner on 20.11.2003 and quash the same and consequently direct the respondents to re-determine the urban land tax payable by the petitioner in respect of its urban land at Thiruvottiyur village in accordance with law.

For Petitioner : Mr.P.R.Raman

For Respondents : Mr.Manokaran Sundaram
Additional Government Pleader

ORDER

Heard Mr.P.R.Raman learned counsel for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader appearing for the respondents.

2.The petitioner is a company incorporated under the Indian Companies Act and have challenged the order passed by the 1st respondent dated 26.09.2003 fixing the value of the land at Rs.26,200/- per ground on 01.07.1981 for the purpose of assessing the land owned by the petitioner to urban land tax. The 1st respondent passed an order of assessment dated 15.05.1993 and determined the urban land tax payable by the petitioner. Aggrieved by the same, the petitioner had filed an appeal before the Sub Court, Chengalpattu which was subsequently transferred to the Urban Land Tax, Tribunal, Thiruvallur and taken on file as U.L.T. Appeal No.21016/99/B3 dated 09.09.2001. Before the Appellate Tribunal, the petitioner contended that the 1st respondent, while making the assessment, had relied upon a sale deed dated 15.09.1980 bearing Document No.1865 of 1980 relating to a small piece of land measuring 2400 square feet land together with a four year old pucca building measuring 1000 square feet consisting of ground and first floor. It was submitted that the said property of 2400 square feet is no way comparable to the location and the larger extent of the land measuring 946 grounds and 51 square feet owned by the petitioner. Therefore, the petitioner contended that the value of the larger extent of the land could have been taken for fixing the land value. Further, it was submitted that the respondent failed to note that the total consideration of Rs.91,000/- mentioned in the said sale deed bearing Document No.1865/1980 is inclusive of the pucca building measuring 1000 square feet sold and as of the year 1980, the value of 1000 square feet four year old building will not be less than Rs.90,000/- and therefore, the value of the land will be only Rs.1,000/- per ground. Therefore, it was contended that the value of the land would not be more than Rs.4,000/- to Rs.5,000/- and the 1st respondent has fixed the market value without considering the locational advantages and disadvantages of each piece of lands and the action of the 1st respondent was mechanical. The Tribunal partially accepted the case of the petitioner and pointed out that the 1st respondent has taken the value of Rs.91,000/- for the sale of one ground with building in Survey No.814/2D Vide Document N0.1865/80 dated 15.09.1980 without separately evaluating the value of the four year old building and reduce the value of the land to that extent. Therefore, the appeal was allowed and the matter was remanded to the 1st respondent for fresh disposal. Thereafter, the 1st respondent had issued a demand notice dated 27.10.2003 demanding payment of urban land tax for the fasli years 1401 to 1413, (13 years) and after giving credit to the amount of urban tax already paid at the rate of Rs.57,274/-, the respondent demanded Rs.29,78,261/-. The petitioner, by their letter dated 14.11.2003, pointed out that the appeal filed by them before the Tribunal has been allowed and the matter has been remanded for fresh assessment and therefore, demanding urban land tax is not sustainable. Thereafter, the 1st respondent took up the matter afresh and has passed the impugned order dated 26.09.2003 fixing the land value at Rs.26,200/- per ground as 01.07.1981.

3.The learned counsel for the petitioner submitted that the 1st respondent has failed to follow the direction issued by the Tribunal and the reason assigned by the 1st respondent for rejecting the sale deed bearing Document No.1865/80 is incorrect. Referring to the said sale deed which has been filed in the additional typed set of papers, it is submitted that in the said sale deed Annexure I has been given in which the type of construction made, the age of the building have been clearly set out and the annual rental value of the building has also been stated as Rs.1,800/-. Therefore, the 1st respondent ought not to have rejected the sale deed bearing Document No.1865/80. Further, the learned counsel submitted that the respondent cannot reject all the sale deeds where there is already a building in existence and the property was sold along with the building. Therefore, it is contended that the reason assigned by the 1st respondent, in the impugned order, is incorrect.

4.I have elaborately heard the learned Additional Government Pleader for the respondents on the above submissions.

5.Firstly, it has to be pointed out that though the Appellate Tribunal held that the 1st respondent ought not to have taken the entire value as set out in the sale deed bearing Document No.1865/80 and separately evaluated the four year old building and deducted its value, ultimately while allowing the appeal, remanded the matter to the 1st respondent for fresh disposal. Thus, the remand was an open remand and the 1st respondent was entitled to consider all issues. The 1st respondent, while passing the impugned order though referred to the sale deed bearing Document No.1865/80, held that the value of the building was not shown in the document. It may be true that the type of construction put up by the party to the said document has been mentioned in the Annexure and the annual rental value has been mentioned, but the value of the building has not been set out in the sale deed nor shown separately while arriving at the sale consideration. Therefore, the reason assigned by the 1st respondent for rejecting the said document is perfectly valid. That apart, the other document which was considered by the 1st respondent was found to be not suitable as it does not reflect the correct value, since the property was a vacant land clubbing two survey numbers, the reason assigned by the 1st respondent cannot be faulted. Ultimately, the 1st respondent took into consideration Document No.293/81 dated 19.02.1981 which was a property in Survey No.237/1, which was located somewhat near to the petitioner's property and after arriving at the land value and giving a reduction of the market value for the petitioner's land by 10%, the land value has been fixed at Rs.26,200/-. The manner in which the assessment proceedings have been done by the 1st respondent is perfectly valid and the reason assigned is also fully justified. Hence, no grounds are made out by the petitioner to interfere with the impugned order.

6.Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sgl

To

1. The Assistant Commissioner Urban Lad Tax
   Madhavaram No.2, Vivek Nagar,
   Kolathur, Chennai - 600 099.

2. The District Revenue Officer,
   Tiruvallur District, Tiruvallur.

3. The Special Commissioner and
   Commissioner for Urban Land Tax,
   Chepauk, Chennai 600 005.

+1cc to Mr.P.R.Raman, Advocate, S.R.No.42448
+1cc to the Special Government Pleader(T), S.R.No.42708

W.P.No.36287 of 2003

SVI(CO)
CA(10/08/2016)