

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT PETITION No.6378 of 2016

Date: 02.03.2016

Between:

M/s Indus Towers Limited, Survey No.133, 4-51,
8th Floor, SLN Terminus, beside Botanical Gardens,
Gachibowli, Hyderabad, rep.by its Senior Manager –
Legal.

..... Petitioner

and

The Madanapalle Municipality, rep.by its
Commissioner, Madanapalle, Chittoor District,
Andhra Pradesh.

.....Respondent

The Court made the following:

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
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PC: (Per the Hon'ble Sri Justice P.Naveen Rao)

Heard Sri G.Rama Rao, senior counsel representing Sri Ganta Sridhar counsel for petitioner, and Sri Md.Saleem, learned standing counsel for respondent.

2. Petitioner company erected 17 cellular infrastructure towers within the territorial limits of Madanapalle Municipality on various private buildings. In this writ petition, petitioner challenges the demand notice dated 21.10.2015 for payment of property tax due upto 30.09.2015 along with interest for the total amount of Rs.13,55,400/-.

3. Learned senior counsel for petitioner contends that prior to this demand, petitioner was not put on notice regarding payment of property tax. No assessment of property tax was made and unless property tax demand is made, no property tax can be levied by the respondent municipality. According to the senior counsel, having come to know that exorbitant property tax is levied on the respective buildings, where the cellular towers of the petitioner are erected, detailed representation was submitted to the Commissioner on 10.12.2015. It was also pointed out that no prior notice was given to them before demand was made. In response, petitioner was informed vide letter dated 25.01.2016 that demand for payment of property tax is validly levied and the objections raised in the representation merits no consideration.

4. Learned standing counsel submits that notice of assessment of property tax was issued to the owners of the buildings and as there was no response /objections were not valid, the claim for payment of property tax was finalized and, therefore, the demand notice was issued. According to the learned standing counsel, petitioner was not chosen to challenge the notice issued at the time of making assessment. The property tax is levied on the cellular towers erected by the petitioner.

5. As it emerges from the submissions made by the learned counsels, no prior notice was given to the petitioner before demand was made for payment of an amount of Rs.13,55,400/-. The detailed statement of account for the respective premises would disclose that under various headings the amount is classified and the total amount is arrived at.

5. Having regard to the said submissions, we intend to dispose of the writ petition as under:

i) Petitioner shall deposit 50% of the amount made in demand notice dated 21.10.2015 i.e., Rs.6,77,700/- within a period of two weeks from the date of receipt of copy of this order.

ii) Petitioner granted liberty to file detailed objections on the assessment of tax payable is made by the respondent municipality within a period of two weeks from the date of receipt of copy of the order.

iii) On receipt of such representation, if any, the Commissioner of respondent municipality shall consider the same objectively without regard to the demand notice issued on 21.10.2015 and shall pass orders and communicate the same to the petitioner.

iv) Respondent municipality shall not take coercive steps until a final decision is made.

v) If no such representation is filed or the amount as directed is not paid within the time granted, it is open to the respondent municipality to take further course of action as warranted by law.

Miscellaneous petitions if any pending in the writ petition shall stand closed. No costs.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

Date: 02.03.2016
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