IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.04.2017
Delivered on : 28.04.2017

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

CRP (NPD) No.1738 of 2013 and
M.P.No.1 of 2013

The Commissioner
Coimbatore City Municipal Corporation
Big Bazaar Street,
Coimbatore - 641 001. ...Petitioner

versus

M/s.Brookefields Estates Private Limited Company
Represented by its Director
Mr.Balasubramaniam
Having its office at Tarapore Towers
1st Floor, 826 Anna Salai,
Chennai - 600 002. ...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the judgment and decree in C.M.A.No.77 of 2009 dated 03.09.2012 on the file of Principal District Court, Coimbatore.

For Petitioner : Mr.J.Sathya Narayana Prasad

For Respondent : Mr.Karthik Seshadri for
M/s.Iyer and Thomas

ORDER

The Coimbatore City Municipal Corporation levied vacant land tax in respect of the property owned by the respondent, by order dated 10 October 2005. The order was upheld by Taxation Appellate Tribunal on 12 February 2009. The Tax Civil Miscellaneous Appeal filed by the respondent was allowed by the learned Principal District Judge, Coimbatore. Feeling aggrieved by the judgment dated 3 September, 2012, in Tax CMA No.77 of 2009, the Coimbatore City Municipal Corporation is before this Court.

2. The respondent purchased the property situated at Krishansamy Road, Coimbatore on 8 February, 2005 for a sale consideration of Rs. 11,30,00,000/- from Hindustan Lever Limited. The Coimbatore City Municipal Corporation assessed the vacant land and fixed the Annual Value of the property at Rs.26,72,03,378/-. The Corporation fixed half-yearly property tax at Rs.30,06,038/-. The assessment was made in accordance with Section 121 (4) of the Coimbatore City Municipal Corporation Act. The Taxation Appellate Tribunal upheld the order passed by the Municipal Corporation.

3. Before the Principal District Court, Coimbatore, the respondent contended that there was no provision for changing the basis of levying or for treating the property as vacant land in the interim period between demolition and re-construction. The contention was accepted by the learned Principal District Judge and the same resulted in setting aside the order passed by the Taxation Appellate Tribunal.

4. The learned Principal District Judge, Coimbatore remitted the matter to the Corporation with a direction that the tax should be levied on the capital value of Rs.11,30,00,000/- .

5. The learned Principal District Judge fixed the amount taking into account the value shown in the document. It is found from the records that the document relating to the property was subjected to proceedings under Section 47-A of the Indian Stamp Act. The Collector (Stamps) re-fixed the value of the property at Rs.26,72,03,378/-. The respondent accepted the order passed by the Collector (Stamps) fixing higher land value and paid additional Stamp Duty of Rs.15,41,910/-. In short, the market value assessed by the Collector (Stamps) under

Section 47-A of the Indian Stamp Act was accepted by the respondent. The Corporation was therefore correct in taking the said value for the purpose of determining the vacant land tax.

6. The Collector (Stamps) found that correct market value was not reflected in the document executed in favour of the respondent by Hindustan Lever Limited. The document was undervalued. The respondent appears to have shown Rs.11,30,00,000/-, being the value of the property. The market value was re-assessed by the Collector (Stamps). The order was accepted by the respondent. The learned Principal District Judge was therefore not correct in directing the Coimbatore City Municipal Corporation to calculate the tax payable by the respondent taking into account only the value shown in the document and without reference to the market value fixed by the Collector (Stamps), which was subsequently accepted by the vendee. I am therefore of the view that the impugned judgment is liable to be set aside.

7. In the result, the judgment dated 3 September, 2012 is set aside. The appeal in C.M.A.No.77 of 2009 filed by the respondent is dismissed. The order passed by the Coimbatore City Municipal

Corporation is restored.

8. In the up shot, I allow the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

28.04.2017

svki

To

The Principal District Court, Coimbatore.

K.K.SASIDHARAN.,J.

(svki)

Order in

CRP (NPD) No.1738 of 2013

28.04.2017