IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.11.2017

CORAM:
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.1632 of 2016 and
CMP No.20290 of 2016

Gandhi Nagar Club
Rep. by its Secretary
Ashok Sarangan
No.73, 4th Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 020. ...Appellant

Vs

1.The Special Tahsildar,
Urban Land Tax,
Mylapore Triplicane Taluk,
Chennai - 600 028.

2.The Urban Land Tax Officer,
O/o.The Special Tahsdilar, ULT
Mylapore Triplicane Taluk,
Chennai - 600 028.

3.The Assistant Commissioner,
Urban Land Tax,
345, Arcot Road, Kodambakkam,
Chennai - 600 024. ...Respondents

Prayer:- Writ Appeal filed under clause 15 of Letters Patent, against the order made in W.P.No.5819 of 2002 dated 14.10.2015.

WP.5819/2002: Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari calling for the records of the respondents, leading upto the 2nd respondent's communication dated 23.01.2002 issued in Form 7A Under Rule 7)2) of the Tamil Nadu Urban Land Tax Act, 1966 as amended in 1971, calling upon the Petitioner to Pay a sum of Rs.14,81,985 towards urban land tax for the fasli years 1385 to 1411 Under Section 14 read with section 40-A of the Tamil Nadu Urban Land Tax Act, 1966 as amended by Act, 1971 for the land in Survey No(s).2 & 3 in Kottur Village, Mylapore, Triplicane Taluk, chennai District and to quash the same.

For Appellant : Mr.Ashok Menon

For Respondents: Mr.V.Anandhamurthy
Addl. Govt.Pleader

J U D G M E N T

K.K. SASIDHARAN,J.

The writ petition filed by the appellant challenging the notice issued by the Assistant Commissioner, Urban Land Tax, directing payment of urban land tax was dismissed by the learned single Judge on the ground that the order determining the urban land tax was not under challenge and the proceedings in question was only a consequential notice for levy. The order is put in issue at the instance of the unsuccessful writ petitioner.

2. We have heard the learned counsel for the appellant. We have also heard the learned Additional Government Pleader on behalf of the respondents.

3. The appellant is in possession of 1.49 acres of land in S.Nos.2 and 3 in Kottur Village. The land was given by Madras Co-operative House Construction Society Limited. The Assistant Commissioner, Urban Land Tax, Mylapore assessed the property tax payable by the appellant and issued a demand notice on 23 January, 2002. The appellant was directed to pay a sum of Rs.14,81,985/- towards Urban Land Tax. The Notice was challenged by the appellant before the Writ Court. The writ petition was dismissed primarily on the ground that the order determining the Urban Land Tax was not under challenge and as such, the writ petition filed against a consequential notice is not maintainable.

4. Since the appellant has taken up a contention that his liability is only to pay the proportionate Urban Land Tax and the said contention was found to be correct on account of the calculation memo filed by the Assistant Commissioner fixing the Urban Land Tax due from the appellant for fasli year 1385 to 1411, we directed the learned Additional Government Pleader to produce the file and make submissions.

5. The learned Additional Government Pleader perused the file and submitted that non-payment of Urban Land Tax by the land owner for the entire land made the Assistant Commissioner to issue the demand notice to the appellant.

6. The counter affidavit filed in the writ petition indicates that tax per fasli is only Rs.5978.40. The authority under the Urban Land Tax called upon the appellant to pay the

Urban Land Tax taking into account the total extent of land. The liability of the appellant is only to pay the proportionate Urban Land Tax taking into account the land given to them by the Madras Co-operative House Construction Society Limited. We are therefore of the view that the second respondent was not correct in issuing the demand notice for the entire amount payable by the original land owner.

7. The demand notice dated 23 January 2002 is set aside. We direct the competent authority under the Urban Land Tax to assess the Urban Land Tax payable by the appellant taking into account the land in their possession. The competent authority after fixing the amount must issue a notice calling upon the appellant to pay the entire arrears. The appellant shall pay the said amount forthwith on receipt of notice.

8. The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Tahsildar,
Urban Land Tax,
Mylapore Triplicane Taluk,
Chennai - 600 028.

2.The Urban Land Tax Officer,
O/o.The Special Tahsdilar, ULT
Mylapore Triplicane Taluk,
Chennai - 600 028.

3.The Assistant Commissioner,
Urban Land Tax,
345, Arcot Road, Kodambakkam,
Chennai - 600 024.

+1cc to the Government Pleader, S.R.No. 86295
+2cc to Mr.MR.ASHOK MENON, Advocate, S.R.No. 85036

W.A No.1632 of 2016

SS(CO)
TR(12/01/2018)