IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2017

CORAM

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

W.P.No.19664 of 2006

Sri Meenakshi Mills Limited
now called
GHCL Limited,
rep. By its Authorised Signatory
Mr.J.Srinivasan
having its office at
Paravai, Samayanallur Post,
Madurai-625 402. .. Petitioner

Vs.

1.The Special Commissioner and Commissioner of Land Reforms, Chepauk, Chennai-600 005.

2.The Assistant Commissioner, Urban Land Tax, Madurai-2

3.The District Revenue Officer, Madurai.

4.The Tahsildar, Madurai-South. .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for records of the proceedings of the impugned order, bearing R.C.2298/2003 (B2), dated 11.04.2006 on the file of the first respondent in respect of lands at Thiruparangunram Village, Madurai South Taluk and to quash the same.

For Petitioner : Mr.A.Balamurali for M/s. Shivakumar and Suresh

For Respondents1,3 &4 : Mr.R.Rajeswaran Special Government Pleader

For Respondent -2 : Mr.S.Kanmani Annamalai Additional Government Pleader

ORDER

Heard Mr.A.Balamurali, the learned counsel for M/s.Shivakumar and Suresh, Mr.R.Rajeswaran, the learned Special Government Pleader for the respondents 1, 3 and 4 and Mr.S.Kanmani Annamalai, the learned Additional Government Pleader for the second respondent.

2. The petitioner is a Textile Mill, which had been declared as a Sick Industrial Undertaking, pursuant to an order passed by the Board for Industrial and Financial Reconstitution (BIFR) under Section 15 (1) of the Sick Industrial Company Act, 1985. A scheme for rehabilitation was framed by BIFR, where, the petitioner/Mill was merged with Gujarat Heavy Chemicals Limited, now called as 'GHCL Limited', and a Scheme of Merger was sanctioned, as per the orders passed by the BIFR, dated 26.11.2001 and 29.05.2002. As of now, the petitioner/Mill stands merged with GHCL.

3. The petitioner/Mill owned a vast extent of land, measuring about 401.116 grounds in S.Nos.43/1, 2, 5 42/1 to 13 B, 43/2 to 5 47/3 to 9, 25/4, 27/1A, 33/2 etc., (herein after referred to as the subject property). The petitioner had constructed 160 Labour Quarters, viz., Thyagarajar Colony. The petitioner also established a School in the year 1960, initially as a Elementary School, aided by the Government of Tamil Nadu, measuring an extent of about 15 grounds and 1461 sq.ft., which also includes the play ground area. After the Village, viz., Thiruparangunram, where, the subject property is situated, was annexed to the urban agglomeration of Madurai, vide Government order, dated 25.06.1981, the petitioner was assessed to tax under the provisions of Tamil Nadu Urban Land Tax Act, 1966 (hereinafter, referred to as the Act) for a total extent of 399 grounds and 1160 Sq.ft. The second respondent, viz., the Assistant Commissioner, Urban Land Tax, Madurai, revised the order of assessment, as exemption under Section 29 (A) of the Act was not given to each survey field in the said order, and issued a fresh order, dated 07.10.1993, by effecting exemption to each survey field to levy urban land tax for a total land, measuring 401 grounds and 1160 sq.ft. and cancelled its earlier order, dated 21.09.1992.



4. Thus, as per the said assessment, the petitioner is due and payable Rs.66,686/- per fasli year, and this was with retrospective effect from 1981 based on the market value of the property as on 01.07.1981. Aggrieved by such order, the petitioner filed an Appeal before the Principal Sub-Court, Madurai, in ULTA No.70 of 1993, under Section 20(1) of the Act, wherein, the petitioner primarily contended that, the fixation

of the market value is contrary to the provisions of Section 5 (C) of the Act and the provision of Section 5 (D) of the Act, which was inserted by way of amendment in the year 1991, would have no application to the assessment upto fasli year 1400 (1990), and that, the second respondent has no authority to fix the market value of the property for the period from 1981 to 1990. The Appeal Petition filed before the Principal Sub-Court, Madurai was entrusted to the counsel appointed by the petitioner, who did not appear before the Court, and ultimately, the Appeal was dismissed, by order, dated 10.12.2002. The petitioner filed a Revision Petition before the first respondent, under Section 30 (1) of the Act, which has been partly allowed and partly rejected by the impugned order.

5. The major issue, which was canvassed before the Revisional Authority is that, i) 160 Labour Quarters constructed in the portion of the subject property are used for the residential purpose of the workmen, engaged by the petitioner/Mill and the Assessing Officer should have allowed 50% tax concession for the Labour Quarters; ii) the Private roads in the labour colonies are eligible for full exemption ; iii) the land used for School and Playground should be fully exempted from tax; iv) Fixation of the market value of the land is contrary to the provisions of the Act; v) 10% tax concession has not been allowed for the entire holdings and vi) Penalty imposed is unwarranted.

6. The first respondent, while considering the claim for 50% tax concession in respect of the Labour Quarters observed that the 50% tax concession cannot be extended to the petitioner, since only in the case, where, the owner of the land constructed residential building for his own use, the said concession can be granted. With regard to the claim for exemption for private roads, the first respondent opined that, there is likelihood of road being converted into a public road. With regard to the fixation of market value of the property, the first respondent assigned certain reasons and confirmed refixation, as done by the second respondent/Assistant Commissioner, ULT, Madurai. With regard to the other claim for exemption in respect of School and Playground etc., the first respondent found fault with the petitioner in not producing records and gave liberty to the petitioner to file relevant records before the second respondent/Assistant Commissioner, ULT, who shall consider the claim, provided, the petitioner satisfies the provision of Section 29 (h) of the Act. Aggrieved by the said order, the petitioner is before this Court.

7. The learned counsel appearing for the petitioner, on instructions, submitted that, during the pendency of the Writ Petition, a portion of the land, where, the Labour Quarters was constructed, has already been sold. There is no records produced

by the second respondent to show that whether the urban land tax arrears, in respect of the area, which was sold has been settled by the petitioner or not. With regard to the observations regarding the road, the first respondent presumed that, there is likelihood of private road being converted as a public road. On the date, when the Revision Petition was decided, there was no material available before the first respondent to show that the road has been converted as a public road. Therefore, such findings should not have been rendered on presumption. With regard to the fixation of the market value of the property, though the first respondent has given certain reasons, it has to be seen as to whether on account of the sale, having been effected by the petitioner in respect of the portion of the subject property along with the Labour Quarters, whether, it will have impact on the fixation of the land value. Insofar as the claim for exemption in respect of School and play grounds is concerned, the learned counsel for the petitioner relied on the decision of this Court, in the case of (Mahaveer Jainkalyan Sangh Vs. The Special Tahsildar (ULT) & another) reported in CDJ 2016 MHC 4615, wherein, the Writ Petition was allowed and the claim for exemption was allowed.

8. Though the Writ Petition has been pending for all these years, the second respondent has neither filed any counter affidavit, nor give any written instructions to the learned Additional Government Pleader. The learned counsel for the petitioner submits that, at the time, when the Writ Petition was admitted, a conditional order of stay was granted subject to the deposit of 50% of the amount. According to the learned counsel for the petitioner, the said condition has been complied with by the petitioner till date and the last of such remittance was made on 30.09.2016 for a sum of Rs.33,343/- for the fasli year 1427 (2016).

9. Thus, considering the subsequent developments in the matter, this Court is inclined to remand the matter for fresh consideration by the second respondent subject to certain directions, which are as follows:-

i) The findings with regard to the rejection of the claim for exemption of 50% tax concession for the Labour Quarters and the road running through the Labour Quarters are set aside and the matter is remitted back to the second respondent for fresh consideration, who shall do so, after taking note of subsequent developments.

ii) With regard to the exemption claim for the School and play ground area, the petitioner is directed to produce the necessary records to substantiate their claim and also raise legal contentions based on the decisions of this Court in (Mahaveer Jainkalyan Sangh Vs. The Special Tahsildar (ULT) & another) supra.

iii) Insofar as the fixation of the market value of the property, the petitioner is given one more opportunity to submit their objections with regard to the findings rendered by the Authority on fixation of the market value. After the petitioner files necessary objections, the second respondent is directed to inspect the petitioner's property, and after such inspection, afford an opportunity of personal hearing and redo the assessment in accordance with law. Till the proceedings are concluded, the petitioner shall continue to remit urban land tax at Rs.33,343/- for every fasli year without default.

iv) The above directions shall be complied with by the second respondent within a period of six months, from the date on which, the objections are filed by the petitioner.

10. With the above observations and directions, the Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

cgi/sd

To

1. The Special Commissioner and Commissioner
   of Land Reforms, Chepauk, Chennai-600 005.

2. The Assisstant Commissioner,
   Urban Land Tax, Madurai-2

3. The District Revenue Officer,
   Madurai.

4. The Tahsildar,
   Madurai-South.

+1cc to Mr.Shivakumar and Suresh, Advocate SR.No.74263
+1cc to Special Government Pleader SR.No.74273

W.P.No.19664 of 2006

SS(CO)
GN(23/11/2017)