

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.36196 of 2003

Purani Textiles (P) Ltd.,
Represented by the Managing Director,
Mr.N.V.Ranganathan,
No.224/3C, S.R.Thottam,
Sithanaickenpalayam (Post),
(via) Karadivavai,
Coimbatore-641 658.

.. Petitioner

Vs.

1. The Assistant Director for Panchayat Office,
Collectorate Premises,
Coimbatore-18.

2. Selakarichal, Special Grade Town Panchayat,
Represented by its President,
Selakarichal Post, Palladam Taluk,
Coimbatore District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records relating to the proceedings of the second respondent, dated 01.05.2002 and the consequential letter of the second respondent, dated 01.10.2003.

For petitioner : Mr.K.Selvaraj

For respondents : Mr.Akhil Akbar Ali, Govt.

Advocate for R-1

Mr.S.Saravanan for R-2

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ORDER

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Certiorari to call for the records relating to the proceedings of the second respondent, dated 01.05.2002 and the consequential letter of the second respondent, dated 01.10.2003.

2. The case of the petitioner is that the property tax in respect of the petitioner-industry was enhanced during 2000-2001 to Rs.14,000/- and that the petitioner was regularly paying the tax till date. Suddenly, a demand notice dated 30.07.2002 was issued by the second respondent demanding a sum of Rs.23,100.50 towards tax, apart from Rs.5,000/- towards professional tax. According to the petitioner, when the property tax was revised only in 2001, the second respondent ought not to have revised the property tax within a period of three years and that the arbitrary action of the second respondent in enhancing and fixing the amount of Rs.23,100.50 from Rs.14,000/- has got to be interfered with by this Court.

3. It is submitted by the learned counsel for the petitioner that aggrieved by the said action of the second respondent in increasing the existing value of tax from Rs.14,000/-, to Rs.23,100.50, which is more than 50% of the earlier tax, the petitioner sent a representation, which was considered by the second respondent and instead of completely removing the increase of tax, the petitioner was directed to pay the amount already assessed for a period of five years, and the amount of 10% alone on the increase value, was reduced and the petitioner was demanded to pay 40% of the enhanced amount of tax, apart from the original amount of Rs.14,000/-.

4. It is further submitted by the learned counsel for the petitioner that the action of the second respondent is liable to be interfered with on the ground that no opportunity of hearing was given before the enhancement and that the increase has taken place within a period of three years, when Rule 14 relating to the General revision of assessment book of the Tamil Nadu Village Panchayats (Assessment and Collection of Taxes) Rules, is clear that the general revision of assessment book shall be made by the executive authority once in every five years as per Rule 14(2) therein. Even though the Rule empowers the respondents to increase the amount of tax even within the period of five years, under Rule 11(3) of the said Rules, a special notice and due opportunity ought to have been given to the petitioner before arriving at the figure of Rs.23,100.50. In any event, the petitioner is now paying the 50% of the enhanced amount of tax as per the interim order of this Court, dated 20.07.2006 passed in W.P.M.P.No.43938 of 2003 and W.V.M.P.No.1008 of 2005 in W.P.No.36196 of 2003. According to the learned counsel for the petitioner, in any event, the impugned orders are liable to be set aside, in view of the decision of this Court reported in 1990 (1) MLJ 384 (Keelakarai Tax Payers Association Vs. Keelakarai Town Panchayat).

5. Per contra, learned counsel appearing for the second respondent submitted that the petitioner-industry was assessed

to property tax for the first time in 2000-2001 and the general revision of tax was carried out in 2003. When the Panchayat has decided to enhance the house tax for industries to 50% based upon the Resolution dated 01.05.2002, there was a revision of tax for the industries including the petitioner-industry. The second respondent stated in the counter affidavit that even though the petitioner has got a right of appeal under Rule 24 of the Tamil Nadu Village Panchayat (Assessment and Collection) Rules, the petitioner has straight away approached this Court by filing this Writ Petition. It is further submitted by the learned counsel for the second respondent that the reliance made by the learned counsel for the petitioner on the decision of this Court reported in 1990 (1) MLJ 384 (cited supra), is not applicable to the facts of this case. Hence, the Writ Petition is liable to be dismissed and the petitioner may be directed to pay the entire amount of tax demanded as per the impugned orders.

6. Heard the learned Government Advocate appearing for the first respondent also on the above aspects.

7. Heard both sides and perused the materials available on record.

8. The facts mentioned supra are not in dispute. The only issue for consideration is as to whether the petitioner was given due opportunity before the revision of tax that took place. Even though the petitioner has stated that there was enhancement of property tax from Rs.14,000/- to Rs.23,100.50, the learned counsel for the petitioner has not denied the fact that the petitioner-industry was assessed to property tax only in 2000-2001. As per Rule 14(2) of the said Rules, a general revision of assessment book shall be made by the executive authority once in every five years and that the previous revision has taken place some time in 1998-99. Thereafter, the assessment has taken place and after assessment, there was a general revision, which fell within the period of three years from the date of the first assessment in 2000-2001. Thus, it is clear that there should be general revision once in five years and there is no bar in revising the tax within a period of five years, in which case, as per Rule 11(3) of the said Rules, there should be a special notice to the affected party, and an opportunity of being heard should be given and after complying with the principles of natural justice, the amount of tax has to be increased. The decision of this Court relied on by the learned counsel for the petitioner may not be applicable to the facts of the present case, as the petitioner was not caught between two revisions and he was assessed only in 2000-2001, and therefore, the general revision took place in 2003. That being the case, the contention of the petitioner that there should be

a revision only after the period of five years and even if they are empowered to revise the tax within five years, a special notice and opportunity of being heard should be given to the petitioner, is not acceptable to the facts of the present case.

9. In view of the above discussion, the Writ Petition is dismissed. The petitioner is directed to pay the amount of tax demanded, vide impugned proceedings, dated 01.05.2002 and the consequential letter of the second respondent, dated 01.10.2003, within 45 days from the date of receipt of a copy of this order. This order will not preclude the petitioner from making a fresh representation to the respondents to consider the petitioner's request for reduction of tax, if eligible and in such event, it is open for the respondents to consider the said request of the petitioner in accordance with law. No costs.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

cs

Copy to

1. The Assistant Director for Panchayat Office,
Collectorate Premises,
Coimbatore-18.
2. Selakarichal, Special Grade Town Panchayat,
Represented by its President,
Selakarichal Post, Palladam Taluk,
Coimbatore District.

+1cc to M/S.S.Saravanan, Advocate Sr. 56117
+1cc to Mr.K.Selvaraj, Advocate Sr. 56036
+1cc to the Government Pleader, Sr. 56556

W.P.No.36196 of 2003

AR (IV)
VR (31/8/2017)