IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2017

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.38502 OF 2003
AND
W.P.M.P.NO.46726 OF 2003

Chennai Metropolitan Development Authority
Represented by its Member-Secretary,
P.R.Sampath,No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008. ... Petitioner

Vs.

1. The Assistant Commissioner (ULT)
Madhavaram,
No.2, Vivek Nagar,
Red Hills Road,
Korattur, Chennai - 600 009.

2. The Tahsildar
Ponneri Taluk,
Ponneri. ... Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari calling for the records on the file of the Second Respondent pursuant to his proceedings in Form No.6 in Na.Ka.No.398/1401 to 524/1412 dated 18.08.2003 as the same is contrary to the Act, and quash the same.

For Petitioner : No Appearance

For Respondent : Mr.K.Venkatesh
Government Advocate for R1
Ms.A.Srijayanthi
Special Government Pleader for R2

O R D E R

Heard Mr.K.Venkatesh, the learned Government Advocate for the 1st respondent and Ms.A.Srijayanthi, learned Special Government Pleader for the 2nd respondent.

2. This is one of a rare case, where one Government Department is proceeding to recover tax from another Department and the aggrieved department is before this Court, seeking redressal of their grievance without making any attempt to resolve the issue Departmentally as both are Government departments.

3. The petitioner is Chennai Metropolitan Development Authority (in short "the CMDA") and are aggrieved by a notice issued by the Tahsildar, Ponneri based on the instruction given by the first respondent, the Assistant Commissioner (ULT), Madhavaram, Chennai.

4. The impugned notice, in fact, is a destrain proceedings initiated by the second respondent on the directions of the first respondent for recovery of Urban Land Tax in respect of the vast extent of land in Edayanchavadi Village. The entire lands were acquired by the CMDA for forming Manali New Town Scheme and the acquisition commenced in the year 1981 and the lands were divided into plots and allotments are said to have commenced in the year 1986 onwards. Thus third parties interest have accrued in the property and it is stated that as per the agreement entered between the petitioner and the allottees, the allottees will have to pay any taxes or charges, which are due and payable in respect of the land in question. Further the petitioner has also moved the Government for giving an exemption by exercising power under sections 27 and 29 of the Tamil Nadu Urban land Tax Act, 1966.

5. The authorized officer of the petitioner is stated to have appeared before the first respondent and furnished particulars with regard to the total extent of the land (Survey Number wise) and details of Allotment of Lands, which are being used for public purposes, un-allotted lands etc. However, the first respondent has taken coercive action for recovery of the alleged Urban Land Tax dues. The petitioner also is stated to have approached the Special Commissioner of Urban Land Ceiling and Urban Land Tax, who by their letter dated 01.09.2002 advised the petitioner to seek exemption under section 27 (i) of the Act or otherwise to file a Revision under section 30 (1) of the Act.

6. At the time, when the writ petition was entertained, the Court pointed out that just because an application has been filed before the Government for getting exemption from payment of tax that by itself, cannot be a reason to grant stay. Hence, interim stay was granted on condition to deposit 50% of the amount demanded. Though the respondents have been served and entered appearance through the Special Government Pleader, no counter affidavit has been filed nor any written instructions has been given to the learned Special Government Pleader.

7. Thus considering the fact that the writ petition is of the year 2003, no useful purpose will be served by keeping this matter pending, more so when the impugned notice issued by the respondent cannot be given effect to as the amount would got reduced, if the petitioner deposited 50% as per the interim direction. In any event if the exemption had been sought for, the Government should have taken a decision in the matter or if the petitioner had been able to satisfy the first respondent that they are not liable to pay the tax, it might have a decision taken. Thus in the absence of any assistance by the respondents, this Court cannot keep the writ petition pending any longer. Accordingly, the writ petition is disposed of by forbearing the respondents from enforcing the impugned notice, till the Government takes a decision in the matter, based on the application filed by the petitioner for exemption under section 27 of the Act. In the event, orders have already been passed by the Government, then it is open to the first respondent to proceed in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

jer/vsm

To

1. The Assistant Commissioner (ULT)
Madhavaram,
No.2, Vivek Nagar,
Red Hills Road,
Korattur, Chennai - 600 009.

2. The Tahsildar
Ponneri Taluk,
Ponneri.

+1cc to the Government Pleader, S.R.No.51247

Writ Petition No.38502 of 2003

AR(CS IV)
CS/17/08/17