THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.24251 of 2017

ORDER:

This Writ Petition is filed by the petitioner under Article 226 of the Constitution of India seeking to declare the action of the 2nd respondent in not changing the house tax assessment of the petitioner's building ground floor bearing D.No.13-16-5, Bapuji Nagar, Kovvur Municipality, West Godavari District from non-residential category to residential category with effect from 15.11.2016 and issuing endorsement, dated 29.12.2016, vide ROC No.1141/2016-Al as illegal, irregular, arbitrary and violative of the provisions of the Andhra Pradesh Municipalities Act, 1965 and Rules framed there under and also offends Articles 14, 21 and 300A of the Constitution of India and consequently direct the 2nd respondent to change the assessment of the petitioner's building ground floor from non-residential to residential.

2. Heard the learned counsel for both the parties and perused the material available on record. With the consent of learned counsel for both the parties, the writ petition is taken up for disposal at the stage of admission.

3. The case of the petitioner is that the petitioner is the absolute owner of the building in Door No.13-16-5 of Bapujinagar, in Kovvur Municipality, West Godavari District, and that the said building is single storeyed building, but the 2nd respondent municipality levied and imposed with non-residential assessment in respect of the ground floor. The petitioner submitted a representation, dated 09.12.2016, to the 2nd respondent requesting

to convert the premises assessment for the ground floor from non-residential to residential purpose. The Commissioner, after receipt of the letter thereon, issued an endorsement, dated 29.12.2016, thereby directing the petitioner to clear the arrears of tax of Rs.1,12,020/- in the assessment number of the petitioner's premises and after clearing of the entire arrears of tax, the petitioner's request will be considered as per the Rules and that the petitioner paid tax payments exceeded the prescribed limit of 50% of the whole assessment levied and demanded by the 2nd respondent.

4. The main grievance of the petitioner is that the petitioner made a representation, dated 27.01.2017, to the 2nd respondent requesting for conversion of the subject building of the petitioner from non-residential to residential and also for conversion of property tax, but so far, the 2nd respondent has not passed any order on the said representation and the same is pending.

5. Considering the circumstances of the case and the grievance of the petitioner, without expressing any opinion on merits, this Court is of the view that the writ petition can be disposed of with the following direction:

The 2nd respondent is directed to consider the representation, dated 27.01.2017, made by the petitioner, and after affording reasonable opportunity of hearing to the petitioner, pass appropriate orders, as expeditiously as possible, in accordance with law, and communicate the decision to the petitioner.

6. With the above direction, the Writ Petition is disposed of. No costs. Consequently, Miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO,J

Date: 24th July, 2017

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82

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