HONB'E SRI JUSTICE CHALLA KODANDARAM

WRIT PETITION No.14165 OF 2017

ORDER:

The writ petition is filed questioning the action of the 2nd respondent corporation in ceasing & locking of the property of the petitioner situated in Door No.30-12-12, Dabagardens, Visakhapatnam, as illegal and arbitrary.

Admittedly, the tax on interest demands have been made on the petitioner with respect to three assessment Nos.18526, 18527 and 18682. In all, the tax demand comes to a sum of Rs.11,26,786/- apart from a huge amount of interest. The entire tax amount due relates to the years 2010 to 2017. Questioning the very rate adopted by the Corporation, petitioner initially had filed a revision and thereafter preferred three separate Tax Appeals bearing Nos.53, 54 and 55 of 2011 on the file of VII Additional Senior Civil Judge Court, Visakhapatnam. While admitting the appeals, the Court had made the following order:

> "Heard the counsel for the petitioner/appellant. Perused the record. There are grounds to grant interim stay. Hence, interim stay is granted against the collection of enhanced tax subject to payment of old tax by the petitioner and with further condition that the petitioner shall deposit the enhanced tax under Section 282(2)(d) of the Hyderabad Municipal Corporation Act, 1955 with the respondent before hearing of main appeal. Issue notice to the respondent. Posted to 6.7.2011."

The material placed by the petitioner discloses that the appeals are being adjourned from time to time. Petitioner had paid a total sum of Rs.7,31,014/- towards the tax to the respondent corporation so far. In terms of the orders of the Court below while granting the stay, petitioner is required to pay the tax as was being paid prior to enhancing and further is required to deposit with the Commissioner the future tax amount as the total tax demand in the present case is Rs.11,26,786/- as against which the petitioner has paid only Rs.7,31,014/-. In other words, there is a deficit of Rs.3,95,772/-. Though Section 282(2)(d) of the Act mandates that the total tax is to be deposited before hearing the appeals, the same cannot be taken advantage by the appellant, the writ petitioner who is the appellant in the tax appeals on account of the tax appeals are not being taken up for hearing. The provision is intended to protect the interest of the taxpayer on the premise that the tax appeals would get disposed of within a reasonable time and the taxpayer as well as the respondents shall put their efforts to resolve the issue with regard to fixation of the ratable values. Unfortunately, the appeals are of the year 2011 kept pending and the reasons are not discernable from the material placed on record.

In those circumstances, the writ petition is disposed of directing the respondent authorities to lock open the premises of the petitioner and hand over the same to the petitioner forthwith. However, the petitioner is directed to deposit a sum of Rs.4,00,000/- (Rupees four lakhs only) within a period of four weeks from today. Further, the VII Additional Senior Civil Judge-cum-Appellate Authority, Visakhapatnam, before whom the appeals are pending shall dispose of the said appeals within a period of three months from the date of receipt of copy of the order. However, it is made clear that if the petitioner-appellant does not cooperate for disposal of the tax appeals, the learned Senior Civil Judge-cum-Appellate Authority may pass appropriate orders on merits after hearing the respondent authorities, in accordance with law. Further, it is also made clear that if the petitioner does not deposit the amount as directed by this Court within a period of four weeks, the respondent authorities are at liberty to take appropriate action against the petitioner in accordance with law. No order as to costs.

Consequently, Miscellaneous Petitions pending if any, shall stand closed.

CHALLA KODANDA RAM,J

Date:19.04.2017,
Gk.

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<u>Gk.</u>