HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.11445 of 2017

ORDER:

The present writ petition is filed challenging the Notice vide Rc.No.2359/2014/A1/Zone-V, dated 22.09.2016, seeking to collect property tax from the petitioner-Institution, and the Endorsement vide Rc.No.845/2016/Zone-5, dated 01.12.2016, both issued by respondent No.4, rejecting the request of the petitioner-Institution seeking exemption from collecting property tax in terms of Section 202(1)(b) & (b)(b) of the Greater Hyderabad Municipal Corporation Act, 1955 (for brevity "the Act") and also the consequential bills/demand notices, as arbitrary and illegal.

2. The petitioner-Institution claims that they are running the School on charitable basis and thus they are entitled for exemption in terms of Section 202(1)(b) & (b)(b) of the Act. The petitioner-Institution asserts that they have already made a representation dated 21.10.2016 to the 1st respondent – Government seeking to classify the petitioner-Institution as a Charitable Institution and thereby grant exemption from payment of property tax in terms of Section 202(1)(b) & (b)(b) of the Act and without disposing of the said representation, the respondent authorities have issued the impugned demand notice dated 22.09.2016 directing the petitioner-Institution to pay property tax.

3. It is also the assertion of the petitioner-Institution that though the 4th respondent – Zonal Commissioner has issued the Endorsement dated 01.12.2016 rejecting the request of the petitioner-Institution seeking exemption from payment of property tax in terms of Section 202(1)(b) & (b)(b) of the Act, he is not authorized to do so and such power is vested with the 1st respondent – Government only. Therefore, the petitioner-Institution prays to set aside the said Endorsement with a further direction to refrain the authorities from collecting property tax demand raised through the impugned Notice dated 22.09.2016.

4. Sri S. Lakshminarayana Reddy, learned Standing Counsel for the respondent – Corporation submits that the petitioners have failed to substantiate their claim that they are rendering charitable services and without there being any material placed before the respondent authorities, the petitioner-Institution cannot be granted exemption from payment of property tax and hence, sought for dismissal of the writ petition.

5. Heard learned counsel for the petitioner-Institution as well as the learned Standing Counsel for the respondent – Corporation and perused the material placed on record.

6. From a perusal of the material on record, it is evident that the petitioner-Institution has definitely made a representation dated 21.10.2016 seeking to classify it as a

Charitable Institution. However, a perusal of the said representation would only discloses that the petitioner-Institution having set out various registrations, which it has obtained from the authorities viz., registration obtained as a Charitable Institution under Section 12AA of the Income Tax Act, 1961; and the registration obtained as a Minority Institution, by itself cannot be the basis for grant of exemption under Section 202(1)(b) & (b)(b) of the Act. While the registration obtained under the provisions of Income Tax Act may give immunity from payment of Income Tax, the same cannot directly and automatically give exemption from payment of Property Tax. Whether the petitioner's school is being run on a charitable basis and, if so, to what extent they are entitled for exemption from payment of property tax with respect to the properties under their control/occupation, is a pure question of fact, which can be decided only when relevant material supporting such claim is placed before the authorities concerned. The representation made by the petitioner-Institution does not disclose any such information. However, the fact remains that the petitioner-Institution is running an Educational Institution and considering the fact that the petitioner-Institution is registered under the Income Tax Act and in terms of Section 12AA of the said Act, there is a prima-facie presumption in favour of the petitioner-Institution that the petitioner's claim deserves to be considered.

7. In those circumstances, if an opportunity is given to the petitioner-Institution to place relevant material for exemption from payment of property tax, no prejudice would be caused to the respondent authorities, however, subject to the condition of the petitioner-Institution paying 50% of the property tax due for the period from 01.04.2014 to 31.03.2017.

8. At this stage, learned counsel for the petitioner-Institution asserts that out of property tax demand due, the petitioner has already paid Rs.4,00,000/-. Therefore, after excluding the said amount of Rs.4,00,000/- from out of 50% of the property tax due, the balance amount shall be paid on or before 31.05.2017.

9. Accordingly, this writ petition is disposed of, giving liberty to the petitioner-Institution to approach the 3rd respondent – Commissioner by placing necessary material in support of their claim for exemption from payment of property tax, which material shall be considered by the 3rd respondent – Commissioner in proper perspective and pass appropriate orders in accordance with law. No order as to costs.

10. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE CHALLA KODANDA RAM

03.04.2017.
Msr

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