IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8191 of 2014
and
M.P.No.1 of 2014

The Inter Mission Industrial
Development Association,
Rep.by its President,
A Society registered
under the Tamil Nadu
Socictics Registration Act,
Represented by President,Jochen Jewes,
Door No:2,6th Cross Street,
Collectorate Colony,
4th Street, Aminjikarai,
Chennai 600 029

... Petitioner

Vs.

The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai 600 003.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for an issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the respondent dated 05.08.2013 in Z.O.VIII/R.D.C.No.R2/3335/13 quash the same and direct the respondent to grant exemption from the payment of property tax under section 103(c) of the Chennai City Municipal Corporation Act 1919 for the land and buildings in the properties viz. 1). 2 grounds and 1856 Sq. feet in T.S. No.3, Block No.11, Puliyur Arumbakkam Village, 2).4 grounds and 227Sq. feet in T.S.No.3, Block No.11, Puliyur Arumbakkam Village, 3). 1 grounds and 1376 Sq. feet in T.S.No. 5, Block No.11, Puliyur Arumbakkam Village, and 4). 1 grounds and 1280 Sq. feet in T.S.No.5, block No.11, Puliyur Arumbakkam Village, bearing old door No:14 new door No: 2, 6th Cross street, Collectorate Colony, Aminjikarai,Chennai 600 029.

For Petitioner : Mr.V.Selvaraj
for M/s.Devadason and Sagar

For Respondents : Mr.T.C. Gopalakrishnan
Senior Counsel

O R D E R

The order of rejection in respect of the claim of the writ petitioner for grant of exemption from the payment of property tax to the Chennai Corporation dated 05.08.2013, is under challenge in this writ petition.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner is the Charitable Institution, which is running for the welfare of the poor and needy people. The objections stated in the Bye-Laws of the Association also narrates that the petitioner Institution is providing education and medical facilities to the poor and needy people. In view of the fact that the petitioner is the Charitable Association, they are entitled for an exemption from payment of property tax from Chennai Corporation. The grievances of the writ petitioner is that the impugned order has been passed without assigning any reason. Thus, the same is liable to be scrapped.

3.The learned counsel appearing for the respondents opposed the contentions by stating that the exemption from payment of property tax are not granted in a routine manner. Exemptions are granted only after strict scrutiny of the provisions of law. With reference to Section 101 of the Chennai City Municipal Corporation Act, 1919 and based on the subsequent amendment, the learned counsel appearing for the respondent reiterates that the educational institutions are not entitled for grant of exemption. Only in respect of Government Aided Schools, the Chennai Corporation is granting exemption from payment of property tax, if such Schools are following the Government guidelines issued in respect of the collection of school fees. The petitioner is a private Institution and therefore, the exemption from payment of property tax cannot be granted in a mechanical manner. The case of the writ petitioner was considered by the authorities competent and in view of the fact that the case of the writ petitioner was not falling under the purview of Section 101 of Chennai City Municipal Corporation Act, the case of the petitioner was rejected.

4.This Court is of an opinion that the tax is the revenue for the ''State''. The tax is a source of income for implementing the constitutional schemes and to implement the directive principles. Unless the citizen pay the tax to such local body of the State, the State would not be in a position to implement the welfare schemes for the benefit of the public at large. The citizens are using the common infrastructure facilities and other amenities provided by the State and without that, people cannot live happily. In view of the fact that such common facilities and infrastructures are being enjoyed by all citizen, payment of tax can never be evaded.

5.Undoubtedly, certain exemptions are granted by the State, by considering certain peculiar circumstances. Such exemptions can never be claimed as a matter of right and always this Court is of a strong opinion that payment of property tax is a Rule. Exemptions are only concessions and such concessions can never be granted without reference to the provisions of law. Concessions are to be extended only if the persons satisfies the condition stipulated under the Statute. Thus, the case of the writ petitioner was considered by the competent authorities by referring to the provisions of Chennai City Corporation Act, 1919 and it was rejected.

6.This being the factum of the case, this Court is of an opinion that an inference cannot be drawn by way of a judicial review, more specifically, under Article 226 of the Constitution of India. If the procedures followed for grant of exemption or rejection of exemption are not in accordance with law, then alone, the Courts can interfere. In the present case on hand, the respondent while entertaining an application, considering the grounds raised, passed an order of rejection without assigning any reasons. But that, cannot be a point for claiming grant of exemption in the present writ petition. If at all, the writ petitioner is aggrieved in respect of not providing any reasons in the impugned order, it is left open to him to prefer the review petition, before the competent authority for the purpose of providing reasons. In the event of filing any such review petition, the competent authority shall consider the same and pass orders by providing reasons for the rejection of exemption to the writ petitioner. However, this will not preclude the authorities from collecting the arrears of property tax from the writ petitioner.

7.The learned counsel appearing for the respondents states that the arrears of property tax amount in respect of premises belong to the petitioner's concerned is Rs.5,63,341/-. Thus, the writ petitioner is liable to pay the property tax and in respect of all other disputes, the petitioner is at liberty to adjudicate the same in the manner known to law.

8.Further, the learned counsel for the petitioner states that appeals are pending before the competent Civil Court of law.

9.The Appeals preferred before the Tribunal can be adjudicated and the same will not prevent the respondent / Corporation from collecting the property tax arrears. In the event of any discrepancy, the same can be adjusted towards all future payments. This being the principles to be followed, the present writ petition deserves no merit consideration. Accordingly, the following orders are passed:

(i) The relief as such sought for in the present writ petition has been rejected;

(ii) The writ petitioner is directed to pay the entire arrears of property tax within a period of four weeks from the date of receipt of a copy of this order.

(iii) In the event of non-payment within the stipulated time, the respondent / Chennai Corporation is directed to initiate all further actions by following the procedures as contemplated under law.

10.With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

sk

Sd/-
Deputy Registrar

// True Copy//

Sub Assistant Registrar

To

The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai 600 003.

+ 1 cc to M/s.Devadason and Sagar, Advocate Sr 62783

+ 1 cc to Mr.T.C. Gopalakrishnan Senior Counsel,
Advocate Sr 62351

KR/5/10/18