IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10-09-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.6778 of 2015
And
M.P.No.1 of 2015

1.V.Gajarajan
2.Mrs.V.Kasthuri
3.Mrs.V.Indumathi
4.Mr.N.Veerasamy
5.Dr.V.Kalanidhi
6.Vee Care Hospital,
Represented by its Managing Partner,
Dr.V.Kalanidhi,
Bearing No.106, Gandhi Street,
Old Thirumangalam,
Anna Nagar West,
Chennai-600 040. .. Petitioners

Vs.

1.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003.

2.The Revenue Officer,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003.

3.The Presiding Officer,
Tax Appellate Tribunal,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent culminating in his order dated 30.12.2014 in T.A.T.No.7 of 2013 and quash the same and to direct the second respondent to reconsider the entire matter after considering the comparative annual rental value for the nearby hospital and etc., and to fix the reasonable annual tax for the hospital.

For Petitioners : Mr.V.Raghupathi

For Respondents-1&2 : Mr.T.C.Gopalakrishnan

For Respondent-3 : Tribunal

O R D E R

The order passed by the third respondent dated 30.12.2014 in T.A.T.No.7 of 2013, is under challenge in this writ petition. A further direction is sought for to direct the second respondent to reconsider the entire matter after considering the comparative annual rental value for the nearby hospital and etc., and to fix the reasonable Annual Tax for the hospital.

2. The learned counsel, appearing on behalf of the writ petitioner, made a submission that the enhancement of property tax made in respect of the premises belongs to the writ petitioners is exorbitant. Proper assessment of property tax has not been done in spite of the representations submitted by the writ petitioners.

3. This apart, the learned counsel for the writ petitioners states that less property tax is imposed in respect of the neighbouring hospital, namely Sundaram Medical Foundation, Anna Nagar and Sri Devi Hospital, Anna Nagar and also Billroth Hospital, Anna Nagar. The learned counsel for the writ petitioners urged this Court, by stating that when the property tax has been fixed in respect of all other neighbouring hospital properties, the same logic is to be adopted in respect of the petitioner-hospital also. Thus, the action of the respondents in respect of fixation of property tax amounts to discrimination and therefore, the writ petitioners are constrained to move the present writ petition.

4. The learned counsel, appearing on behalf of the respondents 1 and 2, opposed the said contention of the learned counsel for the writ petitioners, by stating that the writ petitioners had already approached the Taxation Appeals Tribunal and the entire issues were adjudicated by the Tribunal, finally, the property tax for one half year was fixed as Rs.6,24,967/-. Thus, the writ petitioners are liable to pay the same to the Corporation of Chennai. It is further contended that if at all the writ petitioners are aggrieved from and out of the said order, the writ petitioners have to go before the Appellate Authority. Thus, the writ petition is also not maintainable in view of the provisions under Part V of Section 138-G of the Chennai City Municipal Corporation Act. However, the writ

petitioners have not preferred any appeal against the said order passed by the Taxation Appeals Tribunal. Thus, the writ petitioners are liable to pay the amount confirmed by the Tribunal.

5. This apart, in respect of the neighbouring hospitals, assessments were made in similar manner and regarding M/s.Sundaram Medical Foundation, Anna Nagar, one writ petition is pending before this Court. Thus, uniformity was being adopted in respect of fixation of property tax to all these hospitals and the nearby hospitals by the Corporation of Chennai.

6. This Court is of an opinion that by citing the property tax assessment made in respect of neighbouring hospitals, the writ petitioners cannot say that the tax assessment was not done properly. Even in such cases, the Chennai Corporation is duty bound to assess the neighbouring hospitals and find out the truth behind the allegations and settle the matter uniformly. In respect of the neighbouring hospitals, the respondent-Corporation is bound to verify the same and if necessary reassess the property tax by following the procedures contemplated and inform to all these persons where assessment was not made properly.

7. Undoubtedly, the Corporation of Chennai, is duty bound to impose the property tax uniformly and based on the procedures and the rules contemplated. In this regard, there cannot be any discrimination in fixation of property tax amongst the citizen. The allegations set out in this regard shall be verified by Corporation Authorities and if less property tax is imposed in respect of the neighbouring hospitals, then they are bound to revise the same uniformly to all the owners or the occupiers in the matter of fixation of tax property.

8. The learned counsel for the respondents 1 and 2 states that in this regard, suitable actions will be taken by the officials of Chennai Corporation, if any such discrepancy is found, the same will have to be rectified by initiating appropriate actions. However, by citing one such case, a taxpayer cannot evade payment of tax or avoid the same. Thus, this Court is of an opinion that the Taxation Appeals Tribunal fixed the property tax amount of Rs.6,24,967/- for one half year. That is not taken by way of any further appeal before the competent authority. This apart, the writ petitioners are running a hospital in the prime locality. Thus, the tax assessment is to be made in accordance with the procedures. The officials, who are present before this Court, also confirmed that in respect of the petitioner-premises, the tax assessment was made based on the plinth area and considering the all other aspects in accordance with the Rules.

9. This being the factum of the case, merely by comparing the neighbouring hospitals, the writ petition cannot be entertained for the purpose of reduction of property tax. Contrarily, revenue, being the Sate affair and revenue is of paramount importance for the purpose of providing public welfare schemes, infrastructure facilities and all other developmental activities of the State, there cannot be any compromise in respect of the property tax payments. Even in case of any doubt in respect of certain areas, the benefit of doubt should be granted in favour of the revenue and not in favour of the taxpayers.

10. The citizen at large are utilising the infrastructural facilities and other amenities provided by the Corporation of Chennai. The Corporation of Chennai is duty bound to provide such amenities and facilities to the citizen to facilitate them to have a peaceful and calm life in the city. When the Corporation of Chennai is bound to provide common facilities to the citizen residing within the jurisdiction of Chennai City, the citizen cannot evade or avoid payment of property tax, through which such welfare schemes are implemented. Non-payment of property tax will amount to infringement of the right of other citizen, who all are residing in Chennai City. The tax payers are promptly paying the property tax, enabling the Corporation of Chennai to provide all such facilitate and amenities. A few people evading such property tax payment or avoid such payments or delay the same, the same will cause prejudice to the interest of all other citizen, who are residing in Chennai City.

11. Thus, such non-payment of property tax should be construed as an infringement of the legal right of all other citizen, which is certainly impermissible. The citizen, who all are utilising the common facilities infrastructures and other amenities provided by Chennai Corporation, are duty bound to pay the property tax and other statutory charges, as applicable. Even in case of any factual disputes or otherwise, they are at liberty to adjudicate the same before the appropriate Forums. Contrarily, they cannot keep the matters pending for years together and evade tax payment or prolong and protract for years together with an idea to avoid payment of property tax for an unspecified duration. Such attitude and the mind set of the citizen are to be deprecated. Under these circumstances, the writ petitioners have not made out any valid ground for revision of property tax already assessed and confirmed by the Taxation Appeals Tribunal in T.A.T.No.7 of 2013.

12. In this view of the matter, if the writ petitioners are aggrieved, it is left open to the writ petitioners to file an

appeal in the manner known to law. However, in respect of the present assessment, which was confirmed by the Taxation Appeals Tribunal, the writ petitioners are liable to pay the same and accordingly, the following orders are passed:-

(i) The relief, as such, sought for in this writ petition stands rejected;

(ii) The writ petitioners are directed to pay the property tax arrears amount of Rs.74,61,460/-, within a period of four weeks from the date of receipt of a copy of this order;

(iii) In the event of failure on the part of the writ petitioners in depositing the arrears of property tax amount, within the time stipulated above, then the respondents 1 and 2 are directed to initiate all appropriate actions by following the procedures contemplated under law.

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

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

Svn

To

1.The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai-600 003.

2.The Revenue Officer,
Corporation of Chennai,
Ripon Buildings, Chennai-600 003.

3.The Presiding Officer,
Tax Appellate Tribunal,
Corporation of Chennai,
Ripon Buildings, Chennai-600 003.

+1cc to Mr.T.C.Gopalakrishnan, Advocate SR.No.62830

+2cc to Mr.V.Raghupathi, Advocate SR.No.62893

WP 6778 of 2015

GMY(26/09/2018)