IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.25200 of 2018
and
WMP.No.29293 of 2018

Arulmigu Marundeeswarar Thirukoil
Thiruvanmiyur
Chennai-600 041
Rep. by its Executive Officer ... Petitioner

Vs.

1.The Commissioner for Land Reforms
Ezhilagam, Chepauk
Chennai-600 005.

2.The Special Tahsildar
Urban Land Tax
Velachery Circle
Velachery, Chennai-600 113. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records which culminated in the impugned notice of the 2nd respondent bearing Na.Ka.No./001/ULT/Thiruvanmiyur/2017 dated 18.07.2018, quash the same and consequently, direct the 1st respondent to pass an order exempting the lands of the petitioner from payment of Urban Land Tax under Section 27(1)(a) of the Urban Land Tax Act 1966.

For Petitioner : Mr.A.K.Sriram
for M/s.A.S.Kailasam Associates

For Respondents : Mr.N.Inbanathan
Additional Government Pleader

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O R D E R

The petitioner-Temple filed the present writ petition challenging the notice of the demand dated 18.07.2018 issued by the second respondent, calling upon the petitioner to pay Urban Land Tax in respect of the lands owned by the petitioner-Temple.

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2. Heard Mr.A.K.Sriram, learned counsel for the petitioner and Mr.N.Inbanathan, learned Additional Government Pleader for the respondents.

3. The case of the petitioner-Temple is as follows:

The petitioner-Temple owns large extent of lands in and around Thiruvanmiyur, Palavakkam, Neelankarai and North Chennai. Some of those lands have been let out for commercial and residential purposes. The petitioner-Temple is under the superintendence of the Tamil Nadu Hindu Religious and Charitable Endowments Department and is governed by the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The Executive Officer appointed by the Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Department is administering the temple along with non-hereditary Trustees. The income from the lands of the Temple is being used exclusively for public religious purposes and therefore, the lands owned by the petitioner-Temple would qualify for exemption under Section 27(1)(a) of the Tamil Nadu Urban Land Tax Act, 1966. The income earned from the lands is used exclusively for the objects of the Temple and for religious purposes. However, the respondents were attempting to make assessment of Urban Land Tax on the lands belonging to the petitioner-Temple. Therefore, the petitioner-Temple made a representation dated 09.02.2005 before the first respondent, seeking exemption from payment of Urban Land Tax under Section 27(1)(a) of the Urban Land Tax Act, 1966. The said representation was duly acknowledged by the first respondent on 10.02.2005. While the said representation made by the petitioner is still pending before the first respondent, intimation is being given to the petitioner continuously to pay the Urban Land Tax. The respondents are not justified in insisting the petitioner-Temple to pay disputed tax, without considering and disposing the representation of the petitioner dated 09.02.2005, seeking exemption from payment of such tax. Therefore, the present writ petition is filed with the relief as stated supra.

4. When this writ petition was taken up for admission on 24.09.2018, the learned Additional Government Pleader took notice for the respondents and sought time to get instructions. Accordingly, the matter was adjourned for further hearing today, also by directing the respondents to keep the impugned proceedings in abeyance, pending disposal of the present writ petition.

5. Today, when the writ petition is taken up for further hearing, the learned Additional Government Pleader appearing for the respondents, based on instructions, submitted that no representation or petition filed by the petitioner on 09.02.2005, is available on the file of the first respondent.

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Therefore, he contended that the first respondent is not in a position to dispose the said representation.

6. Perusal of the representation dated 09.02.2005, a copy of the same is filed in the typed set of papers, would disclose that the same was acknowledged by the office of the first respondent on 10.02.2005, evidently from the affixture of seal and signature of some official at the office of the first respondent. Therefore, this Court is of the view that the said representation made by the first respondent has to be considered and appropriate orders shall be passed without loss of further time. In any event as the said representation is said to be not available in the file of the first respondent, the petitioner is directed to furnish one more copy of the same to the first respondent along with the order passed in this writ petition.

7. Accordingly, this writ petition is disposed of in the following terms:

(a) The petitioner shall furnish a copy of the representation dated 09.02.2005 along with the order passed in this writ petition within a period of two weeks from the date of receipt of a copy of this order.

(b) On receipt of such representation along with the copy of the order made in this writ petition, the first respondent shall consider the said representation dated 09.02.2005 and pass orders on the same on merits and in accordance with law, after giving due opportunity of hearing to the petitioner, within a period of four weeks thereafter.

(c) Till an order is passed by the first respondent as stated supra, the respondents are directed to maintain status quo as on today in respect of the impugned demand.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

mk

1.The Commissioner for Land Reforms
Ezhilagam, Chepauk
Chennai-600 005.

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2.The Special Tahsildar
Urban Land Tax
Velachery Circle
Velachery, Chennai-600 113.

+1cc to M/s.A.S.Kailasam Associates, Advocate, S.R.No.69215
+1cc to the Government Pleader, S.R.No.69696

W.P.No.25200 of 2018

GP(CO)
CS/26/10/2018

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