BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.06.2018
CORAM:
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ
W.P.(MD) No.6906 of 2013
and
M.P.(MD).No.1 of 2013

Mannan Cotton Spinning Mills Limited,
rep. by its Managing Director,
No.12/5, Veeracholan Road,
Abiramam,
Ramanathapuram District. ... Petitioner

vs.

1. Abiramam Special Grade Village Panchayat,
rep. by its Executive Officer/President,
Abiramam,
Ramanathapuram District.

2. The Assistant Director,
Town Panchayat,
Sivagangai.

3. The Taxation Appeal Committee,
Abiramam Town Panchayat,
Ramanathapuram District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondents under proceedings Na.Ka.No.207/2005, dated 04.03.2013 on the file of the Executive Officer, Special Grade Village Panchayat, Abiramam and pursuant to the proceedings of the 3rd respondent dated 09.01.2013, dismissing the tax appeal, quash the same and direct the respondent to fix the property tax in respect of the petitioner's mill situate at Veeracholan Road, Abiramam, Ramanathapuram District at the rate of Rs.29,858.40 assessed as per the assessment dated 27.01.1999.

For Petitioner : Mr.P.M.Vishnuvarthanan
for M/s.A.P.R.Associates
For Respondents : Mr.N.Dilip Kumar
Standing Counsel for R-1
Mr.B.Bagavathy
Government Advocate for R-2
No appearance for R-3

O R D E R

The petitioner is a cotton spinning mill, established within the jurisdiction of respondent Village Panchayat. At the relevant point of time, property tax was assessed, based on the estimated investment cost of the mill. The Village Panchayat is entitled to collect 6% of the estimated investment as property tax. Accordingly, a sum of Rs.1,71,600/- was fixed by the respondent Village Panchayat for the year 1997-98. Thereafter, on the basis of the representation of the petitioner, the property tax was reduced into Rs.1,52,895.60/- by the respondent. Thereafter, the petitioner filed an appeal to the appeal committee and the order of appeal committee was challenged by the writ petitioner and the matter was remanded back.

2.Now, the specific grievance of the petitioner is that the Government issued G.O.Ms.Nos.64, dated 24.04.1998 and G.O.Ms.No.169, dated 02.09.2018 and G.O.Ms.No.170, dated 02.09.2018 for determination of property tax. The appeal committee failed to consider the same.

3.The respondent Panchayat, after issuance of the above said Government Orders, had calculated the property tax in accordance with the said Government Orders. The revised method of assessing property tax resulted in levying half yearly tax of Rs.29,858.20/-. Since the revised tax is lesser than the property tax assessed in the year 1997-98, the respondent decided to collect property tax at the old rate. This is challenged before this court by way of this writ petition.

4.Mr.N.Dilip Kumar, learned counsel appearing for the first respondent has vehemently contended that property tax was assessed on the basis of the estimated investment made by the petitioner. On his own estimate to the tune of Rs.2.60 crores, the tax was assessed at 6%, as per the existing rules. However, considering the representation made by the petitioner, it was reduced into Rs.1,52,895/-. However, by way of the resolution passed by the respondent, it was decided to collect property tax at the old rate. However, on revision of property tax, as introduced by the Government in the year 2008 enabling the local bodies to enhance the property tax leviable to industries upto a maximum of 50%, a sum of Rs.2,52,280/- was levied on the petitioner mill as enhanced tax. Accordingly, the petitioner was liable to pay a total tax of Rs.29,43,254/- from 1997 till 2013. Thereafter, the petitioner was directed to clear the outstanding tax dues.

5.I have heard the contentions of both sides.

6.Admittedly, the petitioner established the Spinning Mill at the estimated cost of Rs.2.60 crores. The Village Panchayat has rightly followed the statutory rules and assessed the tax at 6% of the total investment. However, in the year 1998, the Government issued orders in respect of procedure to determine property tax. In fact, the respondent has also assessed the property tax as per the revised procedure and arrived at annual property tax at Rs.59,716/-. When the Government has taken a policy decision to assess the property tax in a particular manner, it is the bounden duty of the respondent to follow the direction of the Government. Only because the income is reduced by implementing the new procedure issued by the Government, they cannot adopt their own methods on their own will. Such exercise amounts to arbitrary exercise of power and it is prohibited by law. Therefore, the consequential demand made by the respondent at old rate of tax assessment is not sustainable. As per the G.O.Ms.Nos.64, 169 and 170, dated 24.04.1998, 02.09.1998 and 02.09.1998 respectively, the property tax is assessed by the respondent at Rs.59,716/- per annum. The petitioner is liable to pay the tax at the above said rate from the year 1998 onwards. As per the above calculation, the total tax to be paid by the petitioner is arrived at Rs.17,81,960/-, which includes the general revision permitted by the Government enabling the local authorities to revise the tax by enhancing upto 50%. Whereas, the petitioner has paid tax at the rate of Rs.48,000/- per annum, totalling to a sum Rs.10,43,148/-. Therefore, there is an arrear of Rs.7,38,812/- to be paid by the petitioner in accordance with the Government Orders issued for determination of tax liability. In such circumstances, it is just to direct the petitioner to pay the tax arrears to the tune of Rs.7,38,812/- to the respondent Panchayat.

7.The learned counsel for the petitioner would submit that because of the latest economic development and market recision, the petitioner is not in a position to pay the entire tax dues in one lumpsum and he seeks permission to pay the arrears in installments. Accordingly, the petitioner undertakes to pay a sum of Rs.2 lakhs on or before 15th July 2018 and the remaining amount in two installments along with the current dues to be payable for the assessment year 2018-19 and thereafter. The request made by the petitioner is accepted and accordingly, a direction is issued to the petitioner to remit a sum of Rs.2 lakhs (Rupees two lakhs only) within 15 days i.e on or before 15.07.2018 and Rs.2,00,000/- (Rupees two lakhs only) along with current tax on or before 15.08.2018 and balance amount on or before 16.09.2018, failing which, the respondent is entitled to collect the dues along with 12% interest per annum.

8.With the above observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:

1. The Assistant Director,
   Town Panchayat,
   Sivagangai.

2. The Taxation Appeal Committee,
   Abiramam Town Panchayat,
   Ramanathapuram District.

+1cc to Spl.Government Pleader Sr.No.70243
+1cc to M/s.A.P.R.Associates, Advocate Sr.No.70230
+1cc to Mr.N.Dilip Kumar, Advocate Sr.No.70121

VS

VB/RP/SAR4/17.07.2018/4P/6C

W.P.(MD) No.6906 of 2013
27.06.2018