THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 24508 OF 2009

O R D E R:

This Writ Petition is filed questioning the demand of property tax / service charges for the premises bearing No. 2-52/1 to 86 consisting of GPRA quarters, Gachibowli, Hyderabad, amounting to Rs.1,57,61,269/- and to declare the demand notices dated 19.10.2009, 23.11.2006 and 10.07.2006 as illegal and arbitrary.

The case of the petitioners is that petitioner No.2 is one of the departments that falls under the purview of petitioner No.1 and hence, all the properties of the offices of petitioner No.2 can be said to be that of petitioner No.1. Hence, the petitioners question the demand of property tax under the impugned notices, in view of the provisions of Article 285 of the Constitution of India.

No counter-affidavit is filed denying the averments of the petitioners.

As can be seen from the affidavit filed by the Executive Engineer, Central Public Works Department, the properties for which the property tax has been demanded are owned by the Central Government. Article 285 of the Constitution of India exempts such properties of the Union from the purview of levying property tax. Further, Section 202(1)(c) of the Hyderabad Municipal Corporation Act, 1955, which provides for levy of property tax, also exempts the land and buildings vested in the Central Government. For better appreciation, Section 202 is extracted as under:

> **"Section 202: General Tax on what premises to be levied:**
>
> (1) The general tax shall be levied in respect of all buildings and lands in the city except:

(a) Buildings and lands solely used for purpose connected with the disposal of the dead;
(b) Buildings and lands or portions thereof solely occupied and used for public worship or for a charitable or educational purpose;
(c) Buildings and lands vesting in the Central Government or the Corporation;
(d) Buildings and lands vesting in the State Government used solely for public purposes and not used or intended to be used for purpose of profit in respect of which the said tax if levied, would under the provisions herein after contained by primarily leviable from the State Government as the case may be.

……………."

In view of the same, since the property tax payable falls within the scope of 'general tax', the same is not liable to be paid by the petitioners. Hence, it can be said that the demand notices are illegal and *ultra vires* the 1955 Act and the same are therefore, liable to be set aside.

The Writ Petition is accordingly, allowed, setting aside the demand notices. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

12th October, 2018

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