THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 3899 OF 2008

O R D E R:

This writ petition is filed challenging the notice of demand, dated 22.01.2008, issued by the respondent to the tenant of the petitioner, demanding a sum of Rs.1,69.958/- towards property tax.

The petitioner asserts that the tax payable for the year 2007-08 was Rs.17,150/- and a sum of Rs.71,174/- towards penalty and Rs.85,750/- were added towards arrears. He also asserts that on account of the harassment of the respondent, his tenant issued a cheque for a sum of Rs.1,24,603/- and the same was en-cashed.

Learned counsel for petitioner submits that the tax payable for the year 2007-08 was Rs.17,150/- and the petitioner has not raised any dispute with respect to the same and that if the tax payable for the previous years is also of the same rate, at best, the respondent ought to have demanded arrears only for three years and not beyond. By placing reliance on the judgment of this Court in **C.E.Cooper Vs. Municipal Commissioner of Hyderabad**[1]**,** learned counsel submits that the demand of property tax by a local body cannot be beyond three years i.e. the amount that could be collected by them if they had approached the civil Court for recovery of arrears of tax.

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[1] 1997 (3) ALD 771 (D.B.)

Though the writ petition is of the year 2008, no counter-affidavit is filed by the respondents till today denying the allegations mentioned in the writ affidavit.

In the judgment cited supra, the Division Bench of this Court made a reference to the order, dated 10.07.1995, in W.P.No.13700 of 1995, wherein it was held that arrears of tax has to be recovered within the time permissible under the Limitation Act .

In the light of the above, the writ petition is allowed directing the respondent to refund the amount collected in excess of the tax arrears for three years, retaining tax for the year 2007-08, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that under the relevant rules, if the respondent is entitled to collect interest, if any, it can deduct the same from the amount paid.

Consequently, miscellaneous applications, if any shall stand disposed of. No costs.

CHALLA KODANDA RAM, J

Dt:19.06.2018
kdl