IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 28534 of 2013 (O&M)

Date of Decision: 09.01.2018

Mandi Gobindgarh Induction Furnace Association (Regd.)

.......Petitioner

Versus

State of Punjab and others

......Respondents

CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE AVNEESH JHINGAN, JUDGE

Present: Mr. Alok Mittal, Advocate
for the petitioner.

Mr. P.S. Bajwa, Addl. A.G. Punjab
for respondents No. 1 and 3.

Mr. G.S. Attariwala, Advocate
for respondent No.2.

S.J. VAZIFDAR, CHIEF JUSTICE

The petitioner has challenged the levy of property tax by the respondents. The petitioner contends that the same is contrary to the provisions of the Punjab Municipal Act, 1911, as amended vide the Punjab Municipal (Amendment) Act, 2013.

It is not necessary to deal with the petitioner's contention in detail as the respondents admit that as on date they were not entitled to collect the tax on account of the provisions of the Act entitling them to do so, have not been complied with.

The necessary procedure entitling the respondents to levy the tax was complied with only w.e.f. 02.01.2014. In other words for the period 01.04.2013 to 02.01.2014, the tax could not have been levied.

It is necessary to refer to three interim orders passed in this petition:

Order dated: September 10, 2014.

> "It appears from the rival submissions that there was no positive decision ever taken by the Municipal Committee, Mandi Gobindgarh to levy house tax during the period from 1.4.2013 till 2.1.2014. Similarly, no notification levying such tax was issued by the State Government also in exercise of powers under Section 62-A of the Punjab Municipal Act, 1911. In the absence of any positive action of levying tax, let the State Government, in consultation with Municipal Committee, resolve the issue as to how to adjust the tax, if any, recovered from the residents during the said period.
>
> Adjourned to 15.12.2014.″

Order dated: January 16, 2015.

> "A perusal of the paper-book reveals that though the Municipal Committee, Mandi Gobindgarh did not pass any resolution imposing house tax as required by Section 62-A of the Punjab Municipal Act, 1911, however, the Administrator, Municipal Committee, Gobindgarh, vide order dated 2.1.2014, imposed the house tax. The order passed by the Administrator was approved by the State Government, but as is apparent from the facts, the Municipal Committee has collected house tax from 1.4.2013 to 2.1.2014. The Municipal Committee may, therefore, be required to refund this amount. The Municipal Committee is granted liberty to work out a formula for adjustment of the house tax.
>
> Adjourned to 13.2.2015."

Order dated: April 10,2015.

> "Having heard learned counsel for the parties, the order dated 10.09.2014 is clarified/modified to the extent that let Municipal Committee take an appropriate decision in consultation with the State Government. If the petitioner is aggrieved by such decision, it shall be at liberty to amend the writ petition and/or challenge the same, in accordance with law.
>
> CM stands disposed of."

The petition is, therefore, disposed of by the following orders:

(i) The respondents shall after affording the petitioner an opportunity of being heard compute the amount, if any, to be refunded to the petitioner and the interest thereon as per law.

(ii) The respondents shall decide whether to refund the amount in cash or to adjust the same against any pending dues of the petitioner or future dues that may arise for a period not beyond 31.12.2018.

This order shall be complied with by 30.04.2018.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(AVNEESH JHINGAN)
JUDGE

09.01.2018
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Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No