IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 10.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.1210 of 2012
and
M.P.No.2 of 2012

V.Muthukrishnan ...Petitioner

Vs

1. The Director,
   Municipal Administration & Water Supply Department,
   Chepauk, Chennai - 5.

2. The Commissioner,
   Coimbatore Corporation,
   Town Hall, Coimbatore - 1.

3. The Asst. Commissioner (Central Zone),
   Coimbatore Corporation,
   Coimbatore - 1.

4. Asst. Commissioner (Revenue),
   Coimbatore Corporation,
   Coimbatore - 1. ...Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records of the 1st respondent dated 12.12.2011 in Vacant land tax Assessment No.355060 for the property bearing No.11/2 Vedambal Nagar and quash the same and direct the respondent to assess the property tax for the period from 1988-1989 (I) to 2003-2004 (I) and from 2008-2009 (I) to 2011-2012 (I).

For Petitioner : Mr.B.Nedunchezhiyan

For Respondents: Mr.A.Zakir Hussain, GA for R1
Mr.J.Sathya Narayana Prasad for R2 to R4

O R D E R

The short question that arises in the present writ petition is as to whether the respondents are justified in demanding vacant land tax retrospectively from the second half of the year 1998 to 2007-2008. Admittedly, the petitioner herein had purchased the property in the year 1996. The respondents had not raised any demand with the petitioner's vendor with regard to payment of vacant land tax.

2. The learned counsel for the petitioner submitted that there is no provision under the Corporation Act for retrospective demand of vacant land tax from the year 1998 onwards and as such, the demand is liable to be set aside.

3. The learned Standing Counsel for the respondents on the other hand, by relying on the counter filed, had opposed such a submission and stated that, if at all the petitioner is aggrieved, there is an alternate remedy of filing an appeal against the demand made. Even otherwise, since the petitioner had completed the construction only in the year 2008, the Corporation had reckoned the capital value of the property from the date of purchase. According to the learned Standing Counsel, under Section 121 of the Corporation Act, the respondents are competent to levy property tax on the building as well as the vacant land tax.

4. I have given careful consideration to the submissions made by the respective counsels.

5. It is not in dispute that prior to the retrospective levy of vacant land tax, the petitioner was not put on prior notice with regard to the mode in which the vacant land tax as well as property tax was levied. Even otherwise, when the respondents had chosen to retrospectively demand the vacant land tax as well as the property tax from the year 1998 onwards, there was a duty cast on them to call for objections from the petitioner prior to such a retrospective demand. In the absence of any such prior notice, the retrospective demand itself would be in violation of the principles of natural justice and hence, the demand is liable to be set aside on this sole ground. Nevertheless, if the respondents are of the view that the petitioner is liable to pay any of these taxes from the year 1998 onwards, such an exercise could be done, after calling for the objections from the petitioner and on consideration of the same.

6. In the light of the above observations, the impugned assessment order dated 12.12.2011, insofar as it relates to the petitioner's property in No.11/2, Vedambal Nagar, is set aside. Consequently, the respondents are granted liberty to issue a

fresh notice, calling for the petitioner's objections with regard to any retrospective demand of either the land tax or the property tax. On receipt of such a notice, the petitioner will be at liberty to put forth his objections. The respondents shall, thereafter consider these objections on its own merits and pass appropriate orders, atleast within a period of 3 months from the date of receipt of copy of this order.

7. With the above observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Director,
Municipal Administration & Water
Supply Department,
Chepauk, Chennai - 5.

2. The Commissioner,
Coimbatore Corporation,
Town Hall, Coimbatore - 1.

3. The Asst. Commissioner (Central Zone),
Coimbatore Corporation,
Coimbatore - 1.

4. Asst. Commissioner (Revenue),
Coimbatore Corporation,
Coimbatore - 1.

+1cc to Mr.J.Sathya Narayana Prasad, Advocate, S.R.No.46015
+1cc to Mr.B.Nedunchezhiyan, Advocate, S.R.No.46046
+1cc to the Government Pleader, S.R.No.46899

W.P.No.1210 of 2012
and
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LN(CO)
CS/27/06/2019