IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2019

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.1572 of 2019
and
W.M.P.Nos.1745 and 1748 of 2019

M/s.Srinivas Fine Arts (P) Ltd.,
having office at,
340/3, Keela Thiruthangal,
Sivakasi - 626 130.
Virudhunagar District
through its
Human Resource Manager ... Petitioner

vs.

1.The State of Tamil Nadu rep. by
the Secretary to Government,
Revenue (Land Reforms) Department,
Chennai - 600 009.

2.The Director of Municipal Administration,
Chepauk, Chennai - 600 005.

3.The Commissioner,
Thiruthangal Municipality,
Thiruthangal, Sivakasi Taluk,
Virudhunagar District.

4.The District Revenue Officer,
Virudhunagar. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Circular No.Roc.No.41802/09/R1 dated 07.09.2009 and consequently the demand notice issued by the 3rd respondent in Na.Ka.No.1264/2016/A1, dated 27.12.2018, to quash the same as illegal, without jurisdiction and void abinitio and consequently direct the 3rd respondent to drop the further proceedings in respect of the petitioner's agricultural land covered by Patta No.2675 of Keela Thiruthanal Village, Sivakasi Taluk.

For Petitioner : Mr.A.Sivaji

For Respondents : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

ORDER

(Order of the Court was made by Subramonium Prasad, J)

The present writ petition is for a Writ of Certiorarified Mandamus, calling for the records issued by the Director of Municipal Administration, Chennai in Circular No.Roc.No.41802/09/R1 dated 07.09.2009, quash the same as illegal, without jurisdiction and void abinitio and consequently the demand notice issued by the Commissioner, Thiruthangal Municipality, Sivakasi Taluk, Virudhunagar District in Na.Ka.No.1264/2016/A1, dated 27.12.2018, and to direct the 3rd respondent, to drop further proceedings in respect of petitioner's agricultural land covered by Patta No.2675 of Keela Thiruthanal Village, Sivakasi Taluk.

2. The petitioner M/s.Srinivas Fine Arts (P) Ltd., Virudhunagar District, has been incorporated under The Companies Act. The petitioner company is carrying on business of printing calendar, diaries and books. For its business purpose, the petitioner owns landed properties. It is the contention of the petitioner that the buildings built up on the lands of the petitioner were assessed to property tax by the Commissioner, Thiruthangal Municipality, Sivakasi Taluk, Virudhunagar District.

3. According to him, agricultural lands are covered by Patta No.2675 of Keela Thiruthangal Village, Sivakasi Taluk and the same is situated in 35 survey numbers. The petitioner further states that kist has been paid regularly and the kist reflects that the lands are agricultural holding of the petitioner. Based on the inspection made by Land Reforms Department, a letter was issued on 14.02.2017 and 16.02.2017, calling upon the petitioner to discuss the issues regarding grant of permission to hold lands for industrial purposes under Section 37-A of the Tamil Nadu Land Reforms (Fixation on Ceiling Land) Act 1961 (as amended).

4. Thereafter, a demand notice was issued by the Commissioner, Thiruthangal Municipality, Sivakasi Taluk, Virudhunagar District/third respondent herein, on 17.03.2016 treating the land as vacant land liable to be assessed for property tax. The petitioner gave a reply to the said demand notice.

5. The petitioner filed a suit in O.S.110 of 2016, on the file of the District Munsif Court, Sivakasi, for a declaration that the lands being agricultural lands site, would not come within the purview of Section 81 of the Tamil Nadu District Municipalities Act, 1920 and therefore, property tax cannot be levied. The suit has been dismissed by a judgment dated 19.11.2018.

6. At this juncture, it is pertinent to extract Section 81 (3)(a) of the Tamil Nadu District Municipalities Act, 1920 and Circular dated 07.09.2009 issued by the second respondent herein:-

> "Section 81 (3) (a) Save as otherwise provided in clause (b), the Council shall, in the case of lands which are not used exclusively for agricultural purposes and are not occupied by, or adjacent and appurtenant to, buildings, levy property tax on such lands at such rate as it may fix, having regard to its location and subject to the minimum and maximum rates per square feet as may be prescribed by the State Government.
>
> Notes.- Clause (a) including the proviso thereto was substituted by Tamil Nadu Municipal Laws (Amendment) Act, 2009 (Tamil Nadu Act 15 of 2009). Before its substitution, it read as follows:
>
> "(a) Save as otherwise provided in clause (b), the municipal council shall, in the case of lands] which are not used exclusively for agricultural purposes and are not occupied by, or adjacent and appurtenant to, buildings, levy these taxes at such percentages of the capital value of such lands or at such rates with reference to the extent of such lands as it may fix:
>
> Provided that such percentages or rates shall not exceed the maxima, if any, fixed by State Government and that the capital value of such lands shall be determined in such manner as may be prescribed."
>
> Office of the Director of Municipal Administration, Chennai 600 005.
>
> Roc.No.41802/09/R1 dated: 07-09-09
>
> CIRCULAR
>
> SUB: Taxes - Property tax on vacant lands - Revised method of Assessment - amendments to Municipal and Corporation Acts (other than Chennai-New Rules - Implementation - Guidelines - issued.
>
> Ref: 1) Tamil Nadu Municipal Laws (Amendment) Act, 2009 (TN Act 15 of 2009).
>
> 2) G.O. (Ms) No.150 MAWS (Elec) department dated 20.8.09.

3) G.O. (Ms) No. 151 MAWS (Elec) department dated 20.8.09.

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Section 81(3)(a) of the Tamil Nadu District Municipalities Act 1920, section 120(4)(a) of the Madurai City Municipal Corporation Act 1971 and section 121(4)(a) of the Coimbatore City Municipal Corporation Act 1981 (which is also applicable to all other Municipal Corporations) provide for the levy of property tax on vacant lands, which are not used exclusively for agriculture purposes and are not occupied by or adjacent and appurtenant to buildings based on the capital value of the said lands.

2. In respect of the Municipalities, based on section 81(3) (a), the maximum percentage of capital value was fixed by the Government. Similarly, in respect of Madurai city Municipal Corporation Act 1971 sec 120 (4) and Coimbatore City Corporation Act 1981 as per section 121 (4) the council shall levy the property tax on vacant lands based on the capital value of such percentages as the council may fix, which shall not exceed six 3. Hence in all the Municipal Corporations (other than Chennai) and in all the Municipalities including Third Grade Municipalities) property tax on such vacant lands only based on the capital value of the said lands.

4 This basis has since been changed by amendments to the Tamil Nadu District Municipalities Act 1920 and the relevant Corporation Acts of Madurai and Coimbatore by Tamil Nadu Municipal Laws (Amendment) Act 2009 - Act No.15 of 2009 published in Government Gazette Extraordinary No.205 dated 6.8.2009. These amendments would come into force from 1.9.2009 as per G.O.Ms No.150 MA&WS (Elec) department dated 20.8.2009. According to these amendments, the Municipal Councils and Corporation Councils shall levy property tax on such lands at such rate as they may fix, having regard to the location and subject to the minimum and maximum rates per square foot as may be prescribed by the Government.

5. Based on the amendments, Government have also framed Rules called the "Tamil Nadu Town Panchayats, Third Grade Municipalities, Municipalities and Municipal Corporations (Levy of Property tax on vacant land) Rules, 2009. According to these Rules,

(a) The Municipalities and Corporations have been grouped into following three grades:

A Grade: Municipal Corporations and Special Grade Municipalities;

B Grade: Selection Grade and First Grade

Municipalities; and

C Grade: Second Grade Municipalities and Third Grade Municipalities and

(b) the Municipal and Corporation Councils shall fix the rate of property tax leviable on such vacant lands subject to the minimum and maximum rates per square feet per half year specified in the Table below:

Rates in Paise per square foot per half year

Locations	A Grade Minimum	A Grade Maximum	B Grade Minimum	B Grade Maximum	C Gr. Minimum	C Gr. Maximum
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(a) Streets in residential areas	20	40	15	30	10	20
(b) Main roads and bus route roads other than those which lead to arterial road	30	50	20	40	15	30
(c) Arterial roads, main roads and bus route roads which lead to arterial road	40	60	30	50	20	40

6. Both the Amendment to the Acts and the Rules mentioned above have to be studied very carefully. In Municipalities and Corporations, the administration of property tax on vacant lands is not upto the mark. There is ho systematic approach of listing out vacant lands within the Municipality/ Corporation and assessing the tax promptly. The M Notices received/ to be received from the Registration Department indicating the change of ownership by registration of sales, transfer etc are not watched. Whenever, people apply for building plan, then only payment of vacant land tax is insisted without even giving a Special Notice for such assessment or assigning VLT assessment number. Hence, after issuing Special Notice prescribed under the Taxation Rules incorporated in Schedule IV of the TNDM Act, and supplying the Tax Card Model: Tax Card Model: Special

Notice mentioned in Rule 7 of Part II of Schedule II of Madurai Municipal Corporation Act 1971 and under Rule 7 of Part II of Schedule II of the Coimbatore City Municipal Corporation Act 1981 (eventhough a notice for the levy and collection of any tax under section 117 is not necessary under Rules 29A of the said Rules in the case of both Madurai and Coimbatore Corporations) tax on vacant land should be demanded.

Likewise an opportunity for Revision Petition and Appeal Petition in the case of Municipalities and an Appeal to Taxation Appeal Tribunal in the case of Corporations is also entitled to the new assessees of vacant land tax. If the vacant land tax is to be collected along with other dues like building licence fees, development charges and other dues to LPAs, contribution to Manual construction workers, while sanctioning building plan, it should be done by way of issue of special notice only in the case of municipalities and after supplying the Tax card mentioned above in the case of Corporations.

7. The purpose of the amendments to the Municipal and Corporation Acts is to ensure that all the vacant lands within Municipal and Corporation areas should be covered by assessment to tax without any omission. The following guidelines are therefore, issued to all the Commissioners of Municipal Corporations and Municipalities for implementing the new system of assessment of property tax on vacant lands effectively and efficiently:-

(i) The Municipal and Corporation areas shall be divided into three categories of locations as mentioned in col.1 of the Table above. The rental value zones already determined for the property tax (on buildings) has no relation to the location based categories. So, these two should not be confused and adoption of the same rental value zones for vacant land would defeat the purpose of the new law.

(Before 15.09.2009)

(ii) The Municipal/Corporation council has to fix the rate of property tax on vacant land tax per half year to be levied on the three categories of locations between the minimum and maximum rates specified in col. (2) and (3), cols. (4) and (5) and Cols (6) and (7) for A, B, and C grades respectively, taking into account the prevailing land value and the financial position of the Municipality/Corporation. The rate should indicate component-wise (in Paise) like for water supply and drainage, street lighting, scavenging, general purpose etc like in the case of property tax on buildings in modification of the council's earlier notification on vacant land tax percentage on annual rental value under the old system. Since the new system delinks the annual / rental value from the system of assessment of vacant land tax, the annual /rental value will not be a factor anymore, so far as property tax on vacant land is concerned.

(iii) A notice Under Rule 9 of Schedule IV of TNDM Act. 1920 (model copy enclosed) should be affixed to the notice board of the Municipal office and on the same day published in the municipal area by beat of drum.

(iv) Publish a notification in District Gazette and by beat of drum indicating the rates of Property tax on vacant lands in cancellation of earlier notification together with component details to be effective from Second half year of 2009-2010 - Vide Section 80 of the TNDM Act 1920, section 119 of the Coimbatore City Municipal Corporation Act and section 118 of the Madurai City Municipal Corporation Act 1981.

(Before 30.9.2009)

(v) Issue preliminary notice as in the case of general revision indicating the proposal to assess all vacant lands which are not used exclusively for agriculture purposes and are not occupied by or adjacent and appurtenant to buildings under the new system of taxation from 2009-2010/ II HY. The notice should contain the proposed rates location-wise and also information about the opportunities available for Revision Petition and Appeal in the case of municipalities and appeals in the case of Corporations as usual. For publication of this notice, the procedure adopted during the General Revision of property tax shall be adopted.

(On 29.9.2009)

(vi) A quick survey of vacant lands in the entire Municipal/Corporation area shall be conducted to identify all vacant lands, whether already assessed or not, under the three categories of locations together with their extent and Survey No, ward no., description of the assessable item, name of owner, address for service of notice with contact telephone or mobile number and e-mail id. (Please refer documents from Registration department, Revenue department, Town Survey, census house hold records, Electricity Board, Town Planning Department (Lay out details) etc). A Master

List of such vacant lands assessed and not assessed with complete details shall be prepared based on the survey and the data computerized quickly.

(Upto 30.9.2009)

(vii) To cancel all vacant land tax assessments which are continuing by mistake or omission even after the levy of property tax on buildings for the same premises from the half year in which property tax is levied for the same premises.

(Before 30.9.2009)

(viii) To publish notice calling for self assessment returns within a period not exceeding one month from the owners of vacant lands with the required particulars in a prescribed format similar to self-assessment returns called for during the general revision of property tax.

(On 29.9.2009)

(ix) Complete assessment of all vacant lands.

(Before 15.12.2009)

(x) Issue Special Notices (in the case of Municipalities and Property tax on vacant land card in the case of Municipal Corporations) and serve them without any omission along with the working sheet for calculation of the property tax on vacant land and the reasons for the revision. In the already assessed cases, if the premises continued to be vacant and attract revision of assessment, the tax under the new system may be less than the previous tax, and that situation is anticipated, and therefore the special notice should contain only the tax as per new calculation to ensure uniformity.

(Before 31.12.2009)

(xi) Last date of receipt of Revision Petitions being 30/1/2010 -disposal of Revision Petition by the Municipalities.

(Before 15.2.2010)

(xii) Last date of receipt of Appeals being 5.3.2010 - disposal of appeal petitions by the Tax Appeal Committees in the Municipalities.

(Before 20.03.2010)

(xiii) Last date of receipt of appeals in the Corporations being 31.1.2010 - disposal of appeals by the Taxation Appeal Tribunal.

(Before 15.3.2010)

8. Exemption from levy of property tax on vacant land will be applicable in all cases / usages which are exempt from the property tax. Hence, commercial organizations such as BSNL/VSNL are liable to be assessed.

9. To update the records of vacant land tax assessments after the completion of general revision now proposed, all registrations of properties happening after 1.9.2009 shall be watched closely through receipt of M Notices from the Registration Department. An employee of the MunicipaIity/Corporation shall be

deputed regularly to the Registration Department to note down changes including address of the purchaser to update the municipal records and issue name transfer. Unlike the present procedure, the change of name would not involve any upward revision of tax as the new system of vacant land tax is not based on capital value and so the people should be encouraged to volunteer for the updation of records so that the collection of property tax on vacant land is made easier.

10. A record for correlating the buildings constructed in vacant lands already assessed to tax should be maintained in the revenue branch of the municipal/corporation offices, so that, as and when the premises are assessed to property tax on buildings, the assessment for property tax on vacant land is cancelled without any omission. In the monthly list submitted by the revenue subordinates for new assessment of property tax, the vacant land tax Assessment number should be invariably noted to make this happen. The rubber stamp prepared for the purpose of recording assessment of Rental Value and tax shall be suitably modified to record cancellation of the vacant land tax assessment.

11. In future for staff norms, the number of assessments of vacant land tax shall also be counted so that the responsibility for levy and collection of vacant land tax is also fixed squarely on the Revenue Assistants (bill collectors) of the area concerned.

12. The time-lines prescribed for each of the above activities shall be scrupulously followed. Once data is collected, the actual assessment shall be made through computers.

13. The Regional Directors of Municipal Administration should ensure that the Time-lines are strictly followed in the Municipalities and verify the progress of the work and also the quality of the work during field inspections and guide the Municipal Commissioners and the Revenue Staff properly after getting themselves thorough with the process quickly. They shall review this item of work along with other subjects.

14. Copies of the three references cited are also communicated herewith. The receipt of this circular shall be acknowledged. Reports on the action taken shall be sent on 15.9.2009, 29.9.2009, 15.10.2009, and every fortnight thereafter till the appeals are finally disposed and demand for property tax on vacant land finalized.

Sd/-P.Senthilkumar
Director of Municipal Administration"

7. On the disposal of the Suit, the petitioner received a notice on 27.12.2018, demanding a sum of Rs.1,80,69,793/- towards property tax. The petitioner gave a reply on 03.01.2019, stating that they are not liable to pay the vacant land tax demanded by the Municipality. Time was also sought to obtain a copy of the judgment made in O.S.No.110 of 2016.

8. Thereafter, the Commissioner, Thiruthangal Municipality, has sent another notice on 08.01.2019, claiming a sum of Rs.1,80,70,423/-. The petitioner has filed the instant writ petition challenging the circular dated 07.09.2009 and the consequent demand notice.

9. The learned counsel for the petitioner would submit that the circular which permits levy of property tax on the petitioner's land, is contrary to Section 81 of the Tamil Nadu District Municipalities Act, 1920. According to him, tax is not leviable because the lands are agricultural lands. The circular dated 07.09.2009, only permits levy of property tax on lands, which are not exclusively used for agricultural purposes and are not occupied by, or adjacent and appurtenant to, buildings, bases on the capital value of the said lands. The said circular fixes only the rate of tax payable on such lands.

10. After the order was reserved, the learned counsel for the petitioner has filed a written submission, which reads as under:-

> "1. During 2001, 2003 and 2005 the lands in question were purchased by the petitioner.
>
> 2. Application dated 22.09.2008 under section 37 A of the Tamil Nadu Land Reforms (Fixation of Ceiling of Land) Act 58 of 1961 as amended was submitted before the Secretary to Government, Revenue Department, Chennai - 600 009. This application is still pending. On 14.02.2017 the Director of Land Reforms, Chennai - 600005 directed the petitioner to produce all records on 16.02.2017. The same were furnished on the said date and the same is now pending before the Industrial Exemption Committee.
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> 3. Tamil Nadu Act 15 of 2009 brought amendment to the Tamiil Nadu District Municipality Act etc, proposing to levy property tax on vacant land which are not exclusively for agricultural purpose and are not occupied by or adjacent and appurtenant buildings based on capital value of the lands. This method of valuation was not approved vide 1980 (2) MLJ 140.
>
> 4. The present amendment is for levying tax on the rates contemplated in the Appendix to the said G.O.151 Municipal Administration and Water Supply (Election) Department dt. 20.08.2009. Rule 2 of Appendix to the

G.O. Stipulates gradation of local bodies and Rule 3 contemplates different rate of tax namely minimum and maximum and the location wise. G.O.Ms. Circular dated 07.09.2009 was issued by the Director of Municipal Administration, Chennai - 5. Based on the said circular no steps were taken by the 3rd respondent Municipality. Necessary resolution was passed by the said municipality on 25.05.2015. Thereafter, a demand notice dated 17.03.2016 was issued unilaterally, without giving an opportunity to the petitioner indicating the proposal to levy tax on agricultural land, which the said municipality treat it as vacant land. This demand notice is from the 2nd half of 2010-2011 till then. Till 17.03.2016 no action was taken by the municipality based on the amendment brought in by the said Act 15 of 2009. The petitioner objected to the same demand notice on 08.04.2016. Since coercive steps were taken by the municipality suit was filed in O.S.No.110 of 2016 on the file of District Munsif Court, Sivakasi challenging the said demand notice. Till now no assessment order was passed. Pending suit the petitioner obtained interim order of injunction in I.A.No.637 of 2016 in the said suit.

5. After the dismissal of the suit on 19.11.2018, the municipality issued demand notice dated 27.12.2018. The petitioner by a representation dated 03.01.2019 sought for time for taking further steps against the said judgment etc., on 08.01.2019 again demand notice was issued and followed by this final notice dated 07.01.2019 was issued proposing to seal the factory premises. Challenging the circular dated 07.01.2019 and demand notice dated 12.07.2018 the above writ petition was filed on several grounds.

A) Suit is maintainable challenging the demand notice when no opportunity was given before raising the demand notice and when there is no Assessment order vide 2009(5) CTC 220 = 2010 (1) MLJ 202, 2010 (2) CTC 44, 1980 (2) MLJ 140.

B) In the notice reason for levying tax must be indicated indicating the area, rate of tax and other requirements as stipulated in the said circular as well as in the schedule in IV of the Rules framed under the Tamil Nadu District Municipality Act vide judgment in W.P.No.11383 of 2016 dated 01.09.2016 by Hon'ble Justice T.S.Sivagnanam and judgment in W.P.Nos.5790 to 5797 of 2016 (8 cases) dated 30.09.2016 by Hon'ble Justice T.S.Sivagnanam.

6. In this case there is no delay on the part of the petitioner in seeking legal remedy. After the amendment in 2009, based on the municipal resolution

dated 25.05.2015 steps were taken to issue the demand notice said above on 17.03.2016 only without giving an opportunity to the petitioner about the rate of tax and the area proposed to be taxed when the petitioner is already paying tax for the building and for the appurtenant area. This is available in the plan approved by the municipality on 23.12.20069 while approving the building plan for additional construction in the petitioner's land. The area of agricultural lands were also indicated. If the vacant site tax is to be levied, then the same must be demanded as a condition precedent for approving the said additional construction. This was not done. On account of this, the municipality is estopped from raising a demand for agricultural lands, as if the agricultural lands, ceased to be so and it has become a vacant site. This document approval of additional constitution was filed before the Civil Court as Exhibit A9. But the Civil Court wrongly noted the date as 15.03.2017 instead of 23.12.2009.

7. Since the municipality failed to give an opportunity while treating nearly 35 acres of agricultural lands as vacant site and failed to put on notice about the rate of tax for the above said area, the municipality cannot straight away issue the demand notice.

8. Without any assessment and without indicating the basis for the taxation, the demand notice is illegal vide 1994(2) LW 715, 1995(2) MLJ 43, 1993 (1) LW 481, 1993(2) MLJ 127 and the said demand notice is to be set aside by directing the municipality to issue notice indicating the reason and rate of tax. When the minimum and maximum rate of tax are stipulated in the Rules, why the municipality levy the maximum rate of tax is also not indicated.”

11. The learned counsel for the petitioner has placed reliance on the following judgments:-

(i) In Dindigul Anna District Tax Payers Sangam etc. vs. Government of Tamil Nadu etc., and another, reported in (1994) 2 L.W. 715.

(ii) In Shencottah Municipality by its Commissioner and another vs. Shencottah Municipality Tax Payers and five others.

(iii) In K.R.Gowri Sedhuraman vs. The Kumbakonam Municipality, reported in 2010 (2) CTC 44.

(iv) In Shanmugha Nadar vs. The Corporation of Madurai by its Commissioner, reported in (1980) 2 MLJ 1978.

12. At this juncture, it is pertinent to note that, in

exercise of the powers conferred by Section 303 read with Section 81 (3)(a) of the Tamil Nadu District Municipalities Act, 1920, the State of Tamil Nadu has brought the Tamil Nadu Town Panchayats, Third Grade Municipalities and Municipal Corporations (Levy of Property Tax on Vacant Land) Rules, 2009, reads under:-

"1. Short title, application and commencement.— (1) These rules may be called the Tamil Nadu Town Panchayats, Third Grade Municipalities, Municipalities and Municipal Corporations (Levy of Property Tax on Vacant Land) Rules, 2009.

(2) They shall apply to all the Town Panchayats, Third Grade Municipalities, Municipalities and Municipal Corporations other than Municipal Corporation of Chennai.

(3) They shall come into force on the first day of September 2009.

2.Gradation of Town Panchayats, Municipalities and Municipal Corporations.- For the purpose of fixation of rate of property tax on vacant land, the Town Panchayats, Third Grade Municipalities, Municipalities and Municipal Corporations shall be graded as specified below:-

A Grade: Municipal Corporations and Special Grade Municipalities.

B Grade: Selection Grade and First Grade Municipalities.

C Grade: Second Grade, Third Grade Municipalities and Town Panchayats.

3.Minimum and maximum rate of property tax leviable on vacant land.- The council of the Town Panchayat or of Third Grade Municipality, or of Municipality or of Municipal Corporation shall fix the rate of property tax leviable on vacant land which are not used exclusively for agricultural purposes and are not occupied by, or adjacent and appurtenant to buildings, subject to the minimum and maximum rates per square foot, as specified in the Table below:-

THE TABLE

Vacant Land with references to its location.	A Grade		B Grade		C Grade	
	Minimum (in Paise)	Maximum (in Paise)	Minimum (in Paise)	Maximum (in Paise)	Minimum (in Paise)	Maximum (in Paise)
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Vacant Land with references to its location.	A Grade		B Grade		C Grade	
	Minimum (in Paise)	Maximum (in Paise)	Minimum (in Paise)	Maximum (in Paise)	Minimum (in Paise)	Maximum (in Paise)
(a) Streets in residential area	20	40	15	30	10	20
(b) Main roads and bus route roads other than those which lead to arterial road	30	50	20	40	15	30
(c) Arterial roads, main roads and bus route roads which lead to arterial road	40	60	30	50	20	40

13. The circular has been issued in conformity with the said Rules of 2009. The circular has been issued for levying tax on lands, other than lands which are used for agricultural purpose. The fact that the petitioner claims that the respondents would not issue a notice demanding tax on the land owns by the petitioner on the ground that it is agricultural land, cannot be heard as a challenge to the vires of the circular. The Act has not been challenged and the circular is not conformity of the Act.

14. The petitioner has further contended that a notice has been issued under Section 37-A of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. Section 37-A of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, reads as under:-

> 37-A. Industrial or commercial undertaking to apply to Government for permission to hold excess land.- (1) If any industrial or commercial undertaking desires to acquire any land in excess of the ceiling area or desires to hold land acquired in excess of the ceiling area, it shall make an application to the Government for permission to acquire such land or for permission to hold such acquired land, as the case may be. Every such application shall be in writing and contain such particulars as may be prescribed:
>
> Provided that an application for permission to hold such acquired land shall be made within such period as

may be prescribed.

Explanation.-In this section, "industrial or commercial undertaking" means any industrial or commercial undertaking (other than a co-operative society) which bona fide carries on any Industrial or commercial operation.]

(2) The Government may grant the permission for the whole or part of the land specified in the application, subject to such conditions as they deem fit or refuse to grant such permission. The order granting such permission shall contain the particulars of the land in respect of which such permission is granted.

(3) The Government shall, in deciding whether to grant or refuse the permission under sub-section (2), take into consideration the following factors, namely:-

(a) nature of the industrial or commercial operation;

(b) whether the excess land is required for immediate use or use in future; and

(c) such other particulars as may be prescribed,

(4) Notwithstanding anything contained in this Act, no industrial or commercial undertaking which has been approved by the Government under clause (iv) of section 73 before the date of the publication of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1972 (Tamil Nadu Act 20 of 1972) in the Tamil Nadu Government Gazette, shall be entitled to hold or acquire land in excess of the ceiling area unless such industrial or commercial undertaking has obtained the permission of the Government under this section in respect of such excess land.

(5) The Government may cancel the permission in respect of any land granted under this section on the breach of any condition specified by the Government."

15. The fact that the petitioner has been called for discussion, for the determination of ceiling on land is no answer for levy for property tax. The purposes of Land Reforms Act is only ensure that a person, does not own land more than the ceiling. The fact that the petitioner owns lands less or more than the ceiling is no answer, as to whether property tax can be levied or not.

16. The petitioner has also relied on a Judgment of this Court in W.P.Nos.5790 to 5797 of 2016, dated 30.09.2016. Paragraph No.11 of the said judgment reads as under:-

"11. In such circumstances, it is a pre-requisite that a pre-assessment notice should be issued to each of the petitioners clearly indicating as to the basis of the demand as to what is the extent of the property, as to how, the annual value/value of the property has been determined and what is the amount demanded by way of tax. Unless and until, the pre-assessment notice is issued giving full details, the owner of the property would not be in a position to submit an effective representation or objection. The impugned notices are classical example of non application of mind without furnishing the relevant particulars and to state that impugned notice is only a proposal to which the petitioners can object, is an empty formality. A person, who sends an objection or a person, who has called upon to give objection should be clearly informed as to what is the proposal. A vague proposal or a proposal bereft of details would not satisfy the requirements of an effective show cause notice. Therefore, the impugned notices have been issued merely as a formality and this has caused serious prejudice to the petitioner, in as much as they were kept in the dark as to what is the basis of demand and how the property has been assessed to tax and how the tax payable has been determined. As held by this Court, in several decisions the guidelines for assessing the market value as provided under the Tamil Nadu buildings (Lease and Rent Control) Act, 1960 should be applied while exercising power under Section 82 of the District Municipalities Act. It is not known as to how the vacant land tax has been calculated what is the land value adopted. Even knowing by the provisions of G.O.Ms.No.151 dated 20.08.2009, the Government Order stipulates upper and lower limits."

17. Clause 7(5) of the circular dated 07.09.2009, mandates issuance of a preliminary notice, in case of revision indicating the proposal to assess the vacant lands which are not used for agricultural purpose.

18. It is the contention of the learned counsel for the petitioner that he has not received any pre-assessment notice and therefore the demand notice is bad. He has relied on paragraph No.11 of the order made in W.P.No.5790 to 5797 of 2016, dated 30.09.2016, extracted supra. The present writ petition is challenging the circular dated 07.09.2009. The circular is valid. The demand notice which according to the petitioner has been raised without confirming to the procedure laid down by the circular dated 07.09.2009, is a matter to be agitated by the petitioner before the authorities. The petitioner is therefore at liberty to approach the authorities and raise all tenable grounds available to him, challenging the procedure and also as to whether the lands belong to the

petitioner are agricultural vacant land or not. Three weeks time is granted to the petitioner, to approach the authorities raising all objections, open to them. The authorities shall consider the objection of the petitioner and proceed in accordance with law within 8 weeks from the date of receipt of the objections.

19. Challenge to the circular therefore fails. The demand notice and the consequential proceedings are kept in abeyance for a period of eleven weeks, so as to enable the petitioner to approach the respondents on the grounds that the procedure as laid down by the circular dated 07.09.2009 has not been followed.

20. The other judgments relied on by the learned counsel for the petitioner are irrelevant to the present controversy.

21. The writ petition is disposed of, with directions in the above mentioned terms. No Costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

dm

To

1. The Secretary to Government,
The State of Tamil Nadu rep. by
Revenue (Land Reforms) Department,
Chennai - 600 009.

2. The Director of Municipal Administration,
Chepauk, Chennai - 600 005.

3. The Commissioner,
Thiruthangal Municipality,
Thiruthangal, Sivakasi Taluk,
Virudhunagar District.

4. The District Revenue Officer,
Virudhunagar.

+1cc to Mr.A.Sivaji, Advocate SR.No.8600

+1cc to Government Pleader SR.No.9140

W.P.No.1572 of 2019
and
W.M.P.Nos.1745 and 1748 of 2019

KJI(CO)
GMY(26/02/2019)