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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2019

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THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.6014 & 6015 of 2018
and
W.M.P.Nos.7398 & 7400 of 2018

Govel Trust
Running Aravind Eye Hospital
No.1, Anna Nagar
Represented by its President
G.Srinivasan
Madurai - 625 020. ...Petitioner in both W.P.s

vs.

1. The Commissioner
Coimbatore City Municipal Corporation
Coimbatore.

2. The Assistant Commissioner
West Zone
Coimbatore City Municipal Corporation
Coimbatore. ... Respondents in W.P.No.6014 of 2018

1. The Commissioner
Salem City Municipal Corporation
Salem.

2. The Assistant Commissioner
Kondalampatti Ward Office
Salem City Municipal Corporation
Salem. ... Respondents in W.P.No.6015 of 2018

Writ Petition No.6014 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent relating to his proceedings in Na.Ka.No.3880/2017/A11 (Mey) dated 06.02.2018, and quash the same and consequently, forbear the respondents from in any manner levying, demanding or enforcing the levy of property tax for the buildings of the petitioner in Door No.3G & 3F, Cowly Brown Road, R.S.Puram, Coimbatore - 641 002, as a building exempted from the levy of property tax as per Section 125(e) of the Coimbatore City Municipal Corporation Act.

Writ Petition No.6015 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second

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respondent relating to his proceedings in Na.Ka.No.M18/3116/2017 dated 21.11.2017 respectively and quash the same and consequently, forbear the respondents from in any manner levying, demanding or enforcing the levy of property tax for the buildings of the petitioner in Door Nos.62 to 66 Sankagiri Main Road, Salem, as a building exempted from the levy of property tax as per Section 125(e) of the Coimbatore City Municipal Corporation Act.

For Petitioner in both W.P.s : Mr.P.Srinivas

For Respondent in both W.P.s : Mrs.K.Bhuvaneswari standing counsel

COMMON ORDER

In both these writ petitions, challenge made is against the orders passed by the respective Corporation refusing to grant exemption to the petitioner-Trust from payment of property tax.

2. The case of the petitioner, in short, is as follows:

The petitioner is a Charitable Trust, formed in the year 1977. The objects of the Trust are as follows: (i) To establish or run Hospitals, surgical homes, health clinics, nursing homes, dispensaries, homes for the old and disabled and handicapped persons and institution of Medical research and other similar institutions as it would give teaching and educating medical and surgical treatment, care, cure, recuperation and other advantages to alleviate the sufferings of mankind, (ii) to take over any existing institutions of the kind referred to above and conduct, run, maintain, develop, extend and improve the same, (iii) to promote and carry on research in diseases and to promote education and research of innovation, experimental, preventive, curative and demonstrative kin of various diseases prevalent among the people, (iv) to recruit, train and provide or to assist in recruitment and training medical and other staff for any such institution, (v) to equip any of the institutions referred to above with necessary beds, machinery, equipment, accessories and instruments, to purchase or acquire necessary drugs, medicines necessary for the maintenance and running of such institutions, and to provide for medical aid and food in such institutions for deserving and needy patients and (vi) to do all acts and deeds or lawful things as are incidental to or necessary and conducive to the attainment of the above objections or any of them provided, however, nothing hereinafter shall be deemed to include any object or purpose which is not a "Charitable Purpose" within the meaning of Section 2(15) of the Indian Income Tax Act, 1961. The petitioner-Trust first established Aravind Eye Hospital in Madurai and subsequently, from the residual income out of the said hospital and from the donations received from the public has established Hospitals in Theni, Tirunelveli, Coimbatore,

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Pondicherry and lastly in Salem in the year 2011. In respect of the building in Madurai, the property has been exempted from levy of property tax by order of this Court dated 10.05.1994 passed in W.P.No.3235 of 1985. This order was followed in respect of the properties in Tirunelveli and Coimbatore. In respect of Coimbatore Aravind Eye Hospital, The order dated 23.01.2009, passed in W.P.Nos.14414 and 14415 of 1997 was confirmed by the Apex Court in S.L.P.(C) Nos.22178 etc., dated 13.01.2014. In respect of the property, where, Aravind Eye Hospital is functioning in Theni, the concerned Executive Authority himself has granted exemption from levy of property tax. The petitioner-Trust is also exempted from income tax as well, as a Charitable Institution. The petitioner-Trust treats 65% of its patients either totally free or on nominal charge to cover the expenses of the medicines and implements used. The income of the Trust is from the patients, who are charged and the said money is entirely put back into the Trust and for the furtherance of the objects of the Trust. Not a single paise can be taken out of the Trust and the entire money earned is put for the development of more Hospitals and dispensaries and eye care centers. Apart from the Eye Hospitals at Madurai, Coimbatore, Theni, Tirunelveli, Thuthukudi, the petitioner-Trust also is running Aravind Vision Centers in 36 places all over Tamil Nadu. Since the Trust is a non-profitable Ttrust and the Hospitals are being run from the income collected from the patients, who are less than 35% and the left out amounts after meeting the expenses are added to the corpus fund, which is in turn used for building more and more hospitals as per the objects of the Trust, the petitioner is entitled for exemption from levy of property tax and urban land tax in respect of lands of the Trust under Section 29 of the Tamil Nadu Urban Land Tax Act. Under Section 123 of the Coimbatore City Municipal Corporation Act, 1981, the buildings and lands of the charitable hospitals and dispensaries are exempted from the property tax.

3. The respondent filed a separate counter affidavit in both the writ petitions, wherein, it is stated that the hospitals are being run in profitable motive and there is no charitable service as alleged by the petitioner. It is further stated that the hospitals run by the petitioner-Trust are collecting charges from the patients for treatment and treating 65% of the people either totally free or on nominal charge and therefore, they are not entitled for any exemption as claimed in these writ petitions. Thus, only persons running charitable hospitals and dispensaries are entitled for exemption from payment of property tax under Section 123(e) of the Coimbatore City Municipal Corporation Act.

4. Mr.P.Srinivas, learned counsel for the petitioner, after reiterating the above contention raised in the affidavits filed in support of these writ petitions, invited this Court's attention to various orders passed in respect of

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the very same Trust granting exemption to its hospitals running at various places. Therefore, he submitted that the respondent-Corporation are not justified in refusing to grant exemption in these cases. He also invited this Court's attention to Section 123(e) of the Coimbatore City Municipal Corporation Act, in support of his contention, which grants exemption to the buildings and lands belonging to the charitable hospitals and dispensaries.

5. On the other hand, the learned standing counsel for the respondent/Corporation, after reiterating the contentions raised in the counter affidavit, submitted that the petitioner is not rendering free service in toto and as they are collecting charges from the patients partly, they are not entitled for exemption.

6. Heard both sides and perused the materials placed before this Court.

7. The petitioner is a public charitable Trust and established with yeoman objects as follows:

(i) To establish or run Hospitals, surgical homes, health clinics, nursing homes, dispensaries, homes for the old and disabled and handicapped persons and institution of Medical research and other similar institutions as it would give teaching and educating medical and surgical treatment, care, cure, recuperation and other advantages to alleviate the sufferings of mankind,

(ii) To take over any existing institutions of the kind referred to above and conduct, run, maintain, develop, extend and improve the same,

(iii) To promote and carry on research in diseases and to promote education and research of innovation, experimental, preventive, curative and demonstrative kin of various diseases prevalent among the people,

(iv) To recruit, train and provide or to assist in recruitment and training medical and other staff for any such institution,

(v) To equip any of the institutions referred to above with necessary beds, machinery, equipment, accessories and instruments, to purchase or acquire necessary drugs, medicines necessary for the maintenance and running of such institutions, and to provide for medical aid and food in such institutions for deserving and needy patients and

(vi) To do all acts and deeds or lawful things as are incidental to or necessary and conducive to the attainment of the above objections or any of them provided, however, nothing hereinafter shall be deemed to include any object or purpose which is not a "Charitable Purpose" within the meaning of Section 2(15) of the Indian Income Tax Act, 1961.

8. The petitioner-Trust has established first Eye Hospital viz., Aravind Eye Hospital at Madurai. It is not in dispute that in respect of the said hospital at Madurai, the

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petitioner-Trust was exempted from payment of property tax in pursuant to the order dated 10.05.1994 passed in W.P.No.3235 of 1985. In respect of the hospitals run by the petitioner at Theni, Allinagaram, The Commissioner, Theni, Allinagaram, himself has granted exemption from payment of property tax through his proceedings dated 21.12.1994. Likewise, in respect of the hospitals run by the petitioner-Trust at Kalapatti Town Panchayat, now merged with Coimbatore Corporation, this Court, by order dated 23.01.2009 passed in W.P.Nos.14414 and 14415 of 1999, set aside the demand notice of property tax and directed the authorities therein to refund the amount already collected from the petitioner-Trust. A careful perusal of the said order of writ Court would show that identical objections were raised by the respondents therein and the same were rejected while allowing the writ petitions. The said order of the writ Court was put to challenge in W.A.Nos.1475 and 1476 of 2010, where a Division Bench of this Court, by order dated 14.06.2013 dismissed those writ appeals, specifically by taking note of the fact that the issue involved is squarely covered by the judgement made in W.P.No.3235 of 1985 dated 10.05.1994. The said order of the Division Bench was put to challenge before the Apex Court in SLP.No.22178 to 22179 of 2013 and the Apex Court, by order dated 13.01.2014, dismissed those petitions.

9. From the above stated facts and circumstances, more particularly, in view of the orders passed by this Court in respect of the hospitals run by the very same petitioner-Trust, at different places in Tamil Nadu, it is evident that the petitioner is entitled to get the very same benefit in respect of their hospitals being run at Coimbatore as well as Salem. The respondents are not justified in refusing to grant such relief to the petitioner simply by stating that the petitioner-Trust are rendering free services only to 65% and by collecting fee from the other people. The petitioner has already explained in detail as to how the nominal fee collected from the other people are being used to cover the expenses of medicines and implements as well as for building more and more hospitals. Moreover, very similar objections raised by the concerned authorities in respect of the other Corporations, were rejected by this Court in W.P.Nos.14414 and 14415 of 1999 and the same has been upheld by the Apex Court. The respondents are not in a position to explain and establish before this Court as to why the hospitals run by the very same petitioner-Trust covered in these writ petitions are to be treated differently to deny the benefit. Thus, I find that the present objections raised by the respondent-Corporation cannot be sustained, more particularly, when there is a statutory benefit provided under Section 123(e) of the Coimbatore City Municipal Corporation Act, 1981, granting general exemption from the property tax to the buildings and lands owned by the charitable hospitals and dispensaries.

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10. Thus, I find that the impugned orders in both the

writ petitions are not sustainable. Accordingly, both these writ petitions are allowed and the impugned orders are set aside. If any property tax is collected from the petitioner by the respondent-Corporation, the same shall be refunded to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar

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To

1.The Commissioner
Coimbatore City Municipal Corporation
Coimbatore.

2.The Assistant Commissioner
West Zone
Coimbatore City Municipal Corporation
Coimbatore.

3.The Commissioner,
Salem City Municipal Corporation,
Salem.

4.The Assistant Commissioner,
Kondalampatti Ward Office,
Salem City Municipal Corporation.

+1cc to Mr.P.Srinivas, Advocate, S.R.No.94326
+1cc to Mr.K.Mahesh, Advocate, S.R.No. 94022

W.P.Nos.6014 & 6015 of 2018

VG I(CO)
GN(17/12/2019)

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