IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.30417 of 2007
and
MP.No.1 of 2007

Maharishi Institute of Creative Intelligence
Represented by its Secretary T C Perumal
'Maharishi Gardens'
No.28 Dr.Gurusamy Road, Chetpet,
Chennai 600 031. ... Petitioner

Vs.

1.The Secretary to Government,
Revenue Department,
Secretariat, Chennai 600 009.

2.The Special Commissioner and
Commissioner for Urban Land Ceiling and
Urban Land Tax,
Chepauk, Chennai 600 005.

3.The Assistant Commissioner,
Urban Land Ceiling and Urban Land Tax
Egmore - Tondiyarpet,
No.409 [248] EVR Periyar High Road,
Aminjikarai, Chennai 600 029.

4.The Special Tahsildar [Urban Land Tax]
Egmore Purusawalkam Taluk,
Mayor B Ramanathan Slaai,
Chetpet, Chennai 600 031. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling for the records relating to the impugned Demand Notice dated 27.07.2007 and quash the same.

For Petitioner : Mr.S.Namasivayam

For Respondents : Mr.R.P.Pratap Singh
Government Advocate

ORDER

The petitioner is the Maharishi Institute of Creative Intelligence, a Society registered under the Societies Registration Act, 1860. The objectives of the Society include the promotion, carrying on and imparting of education related to several fields such as Arts, Science, Religion, Spiritualism, Vedic knowledge, Space, Science and Technology among others.

2.The society has established a school under the name and style of the Maharishi Vidya Mandir Senior Secondary School ('School') in 1983 in the city of Chennai. The school is situated in an area comprising 38 grounds and 1152 sq. ft. At the time of filing of the writ petition, i.e. in 2007, the school is said to have contained 3000 students, 150 teachers and around 80 non-teaching staff.

3.The issue before me relates to an exemption sought by the petitioner in terms of Section 29(h) of the Tamil Nadu Urban Land Tax Act 1966 (Act). A piquant situation arises before me as the petitioner, for its part, states that has already been accorded exemption by virtue of an order passed by the 3rd respondent i.e. the Assistant Commissioner, Urban Land Ceiling and Urban Land Tax (R3) dated 20.03.1997 in proceedings NC.No.4/Bk.23/91/Egmore. The petitioner had, at that juncture, suffered orders of assessment dated 30.10.1993 levying Urban Land Tax for the fasli year 1401 (1991). On the basis of the exemption order dated 20.03.1997, assessment order dated 30.10.1993 was ordered to be cancelled. Even thereafter, according to the petitioner, it was in receipt of notices of recovery calling upon it to pay Urban Land Tax. Hence the present writ petition, which hinges almost entirely around exemption order dated 20.03.1997.

4. The respondent, in counter, denies the existence of order dated 20.03.1997 and this is re-confirmed by the 3rd respondent, who vide letter dated 21.11.2019, states that no order has been passed extending exemption to the petitioner. The respondents specifically confirm that neither report dated 17.02.2007 referred to in order dated 20.03.1997 nor the order granting exemption and cancelling the demand raised under assessment, have been issued as averred by the petitioner. Moreover, what has been produced before the Court is only a copy of order dated 20.03.1997, attested on 03.05.2000 by the Special Tahsildhar (ULT). The petitioner was called upon to produce the original but has expressed its inability to do so stating that the same is unavailable.

5.In the light of the clear dichotomy in facts and to ascertain and confirm the accurate position in fact, records were sought, upon examination of which the learned respondent counsel specifically reiterated the position that the following documents were unavailable on file: (i) order dated 20.03.1997 (ii) report dated 17.02.2007 (referred to collectively as 'documents in question').

6. The respondents were directed to confirm the identity of the officers who had issued the documents in question. By proceedings dated 22.11.2019 the Special Tahsildar, Urban Land Tax has confirmed that order dated 20.03.1997, signed by G.Muthukrishnan has been attested by one R.Sundaresan, the then Special Tahsildar (ULT). The Report dated 17.02.1997 has

been issued by one R.Paranjothi, the then Special Tahsildar.

7. A certificate has been issued on 23.08.2011, wherein also reference is made to proceedings dated 20.03.1997. This certificate is signed by the Special Tahsildar (ULT), one Abith Husain. It is to be specifically ascertained as to how the documents dated 17.02.2007 and 20.03.1997 are untraceable when a certificate has been issued on 23.08.2011 which one presumes, would have been issued only after physical verification of the documents. If certificate dated 23.08.2011 is to be believed then the documents in question have gone missing only thereafter.

8.In the light of these inconsistencies which, in my view, go to the root of the matter, I direct a detailed enquiry and investigation be conducted into the matter in the light of the discussion as aforesaid, and the veracity and authenticity of (i) report dated 17.02.1997, (ii) exemption certificate dated 20.03.1997, and (iii) certificate dated 23.08.2011, be determined. This writ petition be placed for compliance of this direction on 06.01.2020.

9.On the issue of grant of exemption, neither of the learned counsel have any serious objection to the conduct of an enquiry since, admittedly, there has been no enquiry conducted till date on the entitlement of the petitioner to exemption.

10.Section 29(h) reads as follows:

> '29.Exemptions.-Nothing in this Act shall apply to-
>
> ......
>
> (h) any urban land used by schools, colleges or universities for purposes directly connected with education, but not including any urban land owned by such educational institutions and-
>
> (i) which is vacant, or
>
> (ii) in which buildings from which income is derived have been constructed.
>
> Explanation I.-For the purposes of this clause, schools or colleges shall mean only such schools or colleges which are educational institutions recognised either by the Government or by any University, as the case may be.
>
> Explanation II.-For the removal of doubts, it is hereby declared that the urban land on which schools, colleges or universities or staff quarters or hostels or other buildings used for the welfare of the students, have been constructed, or used as playgrounds attached to such schools, colleges or universities, shall be deemed to be urban land

> used for the purposes directly connected with education.'

11.The petitioner contends that the exemption is automatic but I disagree. As per Exemption II, the benefit of exemption is available only to urban lands that are used by Schools, Colleges and Universities for any purpose directly connected to education including, as staff quarters, hostels or other buildings used for the welfare of the students, or play grounds. However, buildings from which income is derived by commercial exploitation stand outside the purview of the exemption as per Section 29(h)(ii). Bearing in mind this aspect of the matter, the respondents are directed to pass suitable orders on merits and in accordance with law on the claim of exemption after hearing the petitioner and considering all/any materials that may be produced by it in support of its claim within a period of six weeks from date of a receipt of a copy of this order.

12.This writ petition is disposed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

vs
To

1.The Secretary to Government,
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2.The Special Commissioner and
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Egmore Purusawalkam Taluk,
Mayor B Ramanathan Slaai,
Chetpet, Chennai 600 031.

+1cc to Mr.S.Namasivayam, Advocate SR.No.98729
+1cc to Government Pleader SR.No.98917

W.P.No.30417 of 2007
and
MP.No.1 of 2007

VBA(CO)
GMY(02/12/2019)