IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2019

CORAM

THE HON'BLE Mr. JUSTICE M.DHANDAPANI, J.

W.P.Nos.34569 of 2007

M/s. C & D Educational Trust
Represented by its Founder Trustee
and the Managing Trustee
Mr. S. David
No.15, Kumaran Nagar
Avadi, Chennai- 600 071,
Tiruvallur District.

...Petitioner

Vs

Urban Land Tax Officer
and Tahsildar,
Ambattur,
Tiruvallur District.

... Respondent

PRAYER:

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus or any other writ or order or direction in the nature of writ calling for the records relevant to the order in Form 7A notice to demand dated 10.10.2007 passed by the respondent and quash the same as illegal, improper, unreasonable, arbitrary, against the rule of law and natural justice and non-application of mind and thereby direct the respondent to receive the true demand amount from the FASLI year of 2002 onwards from the petitioner.

For Petitioner : Mr. P. Murugan
For Respondent : Mrs. K. Bhuvaneshwari, AGP

ORDER

Writ Petitions is filed to call for the records relevant to the order in Form 7A notice to demand dated 10.10.2007 passed by the respondent and quash the same as illegal, improper, unreasonable, arbitrary, against the rule of law and natural justice and non-application of mind and thereby direct the respondent to receive the true demand amount from the FASLI year of 2002 onwards from the petitioner.

2. The Learned counsel for the petitioner submitted that the petitioner purchased lands to the extent of 5 acres and 11 cents in various names in the year 2002 in favour of the Petitioner's Educational Trust. While that being so, in the year 2007, the respondent issued a demand notice dated 10.10.2007, demanding land tax to the tune of Rs.4,32,735/- for the fasli year 1401-1417. Even before the issuance of the impugned demand notice, as the petitioner had already paid a sum of Rs.45,630/- towards land tax, after deducting the same, the respondent demands a sum of Rs.3,87,105/- as land tax, against which the present Writ Petition is filed.

3. The Learned counsel for the petitioner would further submit that though the petitioner purchased the properties in the year 2002 demand is made for falsi years 1401-1417, namely for 17 years. The petitioner is liable to pay land tax from the date of purchase and not for the earlier period.

4. The Learned Additional Government Advocate submitted that he had no instructions form the Government and the Government had not filed the counter.

5. On a perusal of the records, it revealed the undisputed fact that the petitioner purchased the properties in the year 2002 and sale deeds were filed along with the typed set of papers. Thereafter, the Petitioner's Educational Trust made application for regularization of their unit. In order to process the regularization application, the CMD authorities issued a notice for assignment and collection of regularization fees and demanded Rs.5,34,858/- and the petitioner paid the entire regularization fees. Thereafter, the Urban Land Authority issued a notice for the payment of Rs.4,32,735/- and after deducting the amount of Rs.45,630/- already paid, demanded Rs.3,87,105/- as Urban Land Tax under section 14 read with Section 40-A of the Tamil Nadu Urban Land Tax 1966.

6. Admittedly, the petitioner enjoyed the property right from 2002 onwards. When the petitioner purchased the property it is for them to got it clarified whether their vendors have paid the Urban Property Tax upto date or not and if the tax had not been paid by the original land owner then the subsequent purchaser has to necessary pay the tax due to the Government. Without payment of land tax, no person is entitled to develop the property.

7. In the present case, without verification the petitioner had purchased the property. Hence, it is necessary for the petitioner to pay the Urban Land Tax and other taxes to the

Government. Hence, argument of the Learned counsel cannot be accepted. I do not find any error in the order passed by the Urban Land Tax. However, while the petitioner had paid the tax amount of Rs.45,630/- and the balance amount demanded is Rs.3,87,105/-. petitioner is directed to pay balance amount without any penal interest. Learned counsel for the petitioner requested that this Court may grant sometime to pay the amount. Accordingly, four (4) weeks time is granted to pay the amount from the date of receipt of a copy of this order. Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrn

To,
1. Urban Land Tax Officer
and Tahsildar,
Ambattur,
Tiruvallur District.

+1cc to the Government Pleader, S.R.No.54486

W.P.Nos.34569 of 2007

SP(29/08/2019)