IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.20449 of 2008
MP No.1 of 2008

Samaritan Educational Trust
rep. by its Director .. Petitioner

-vs-

1.The District Collector/
Inspector of Panchayats
Vellore District, Vellore.

2.The President/Executive Authority,
Yelagiri Panchayat,
Yelagiri Post, Vellore District. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records relating to the impugned proceedings of the second respondent in V.V.No.1186 dated 15.04.2008 quash the same.

For Petitioner:: Mr.V.S.Manimekalai

For Respondents:: Mr.N.Srinivasan,
Additional Government Pleader
for R1

No appearance for R2

ORDER

The petitioner has come to this Court challenging the correctness of the impugned proceedings bearing V.V.No.1186 dated 15.04.2008 issued by the second respondent.

2.Learned counsel appearing for the petitioner would submit that the petitioner Trust has been administering a school by name Samaritan Matriculation Higher Secondary School at Mangalam Village, Yelagiri Hills, Vellore District. According to the learned counsel appearing for the petitioner, 15 of the Tamil Nadu Village Panchayats (Assessments and Collection of Taxes)

Rules 1999 was amended and as per the amended Rules, self financed institutions are liable to pay property tax. However, the amendment was notified in and by G.O. Ms. No.38 Rural Development and Panchayat Raj Department dated 05.03.2008. While so, the second respondent has issued the impugned proceedings demanding a sum of Rs.1,03,680/- towards property tax for the years 2005-06, 2006-07 and 2007-08. Learned counsel appearing for the petitioner would submit that when the amendment came into effect only from 05.03.2008 directing all the self financed institutions to pay the property tax, the impugned proceeding calling upon the petitioner to pay the property tax even for the years 2005-06, 2006-07 and 2007-08 is liable to go. In support of her claim, learned counsel appearing for the petitioner also placed a D.O. Letter No.49491/PR.1/2005 dated 25.03.2008.

3.Learned Additional Government Pleader appearing for the first respondent, on receipt of the copy of the letter, stating that the buildings used for educational purposes by Government aided institutions, for conducting self-financing unaided courses shall be subject to levy of house tax and the Rule 15(c) came into effect only from 05.03.2008, submitted that if the petitioner, who is liable to pay the property tax with effect from 05.03.2008, continues in default, the respondent would proceed for non payment only from 05.03.2008.

4.A perusal of the amendment notified in G.O. Ms. No.38 Rural Development and Panchayat Raj Department dated 05.03.2008 would show that the amended rule came into effect only from 05.03.2008 and the above D.O. letter produced by the petitioner shows that Rule 15(c) shall come into effect from 05.03.2008. It is relevant to extract the same as under:

> '3.Therefore Rule 15(c) has been amended suitably and the same has been published in the Tamil Nadu Government Gazette Extraordinary dated 05.03.2008. The amended Rule 15(c) is as follows:
>
> 15.Exemption of specified clauses of houses from house-tax:- The following building shall, if they fall within the meaning of house as defined in the Act, be exempt from the house-tax -
>
> (c)buildings used for educational purposes including hostels and libraries run by the Government or local bodies and institutions aided by the Government and Public buildings used for charitable purpose of sheltering the destitutes or animals".
>
> Provided that nothing contained in clause (a) shall be deemed to exempt from house-tax, if any building for which rent is payable by the person or persons using the same for the purposes referred to in the said clause.

Provided also that the buildings used for educational purposes by Government aided institutions, for conducting self-financing unaided courses shall be subject to levy of house-tax". This Rule shall take effect from 05.03.2008.'

5.The above proviso clearly shows that the buildings used for educational purposes by government aided institutions shall be exempted from levy of house tax.

6.It is also submitted by the learned counsel appearing for the petitioner that the School has been paying property tax from 2008 onwards till now without any complaint.

7.In the light of the amendment notified in the above G.O., the impugned order is liable to be quashed and the same is quashed. Accordingly, the writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(V/O)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector/
Inspector of Panchayats
Vellore District, Vellore.

2.The President/Executive Authority,
Yelagiri Panchayat,
Yelagiri Post, Vellore District.

+1cc to the Government Pleader sr.38214

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