

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.6542 of 2007

and

WMP.No.1 of 2007

M/s. Super Sales India Ltd
Represented by Authorised Signatory
and Senior Manager-Finance
Mr. S. Ravindran
34-A, Kamaraj Road,
Coimbatore-641 018.

..Petitioner

vs

1. The State of Tamil Nadu
Represented by Secretary
Local Administration Department
Fort St. George
Chennai- 600 109.

2. The President,
V. Vavipalayam Panchayat,
V.Vavipalayam- 641 671.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari or any other writ or direction in the nature of a writ calling for the records pertaining to the demand notice dated 23.12.2006 under Ref.No.NIL issued pursuant to Letter dated 11.12.2006 under Ref.No.NIL issued by the President, V.Vavipalayam Panchayat, the second respondent herein, and to quash the same by allowing the above Writ Petition.

For Petitioner : Mr.Anirudh Krishanan

For Respondents : Ms.K.Bhuvaneswari, AGP for R1 and R2

O R D E R

Writ Petition is filed to call for the records pertaining to the demand notice dated 23.12.2006 under Ref.No.NIL issued pursuant to Letter dated 11.12.2006 under Ref.No.NIL issued by the President, V.Vavipalayam Panchayat, the second respondent

herein, and to quash the same by allowing the above Writ Petition.

2. The petitioner engaged in the manufacture and sale of yarn of various types, act as a selling agent of Textile Machineries manufactured by Lakshmi Machine Works Limited, Coimbatore and installed a number of windmills for producing wind energy which is used for own consumption and sale to Tamil Nadu Electricity Board.

3. The petitioner further averred that the petitioner company purchased land comprised in Survey Nos.452/2, 455/1, 456/2, 484, 485/2, 491/2, 492/2A, 487, 488, 492/3B, 494/1, 494/2, 494/3, 495, 498/1, 498/2, 501, 503, 508/1, 510 in Vavipalayam Village measuring a total extend of 146.535 acres under sale deed Numbers 3122/06, 3123/06, 3124/06, 3125/06, 3126/06, 3127/06, 3136/06, 3135/06, 3134/06, 3133/06, 3128/06, 3137/06, 3131/06, 3132/06, 3121/06, 3120/06, 3119/06, 3118/06, 3129/06, 3130/06, Survey Nos. 313/3, 314/2, 315, 322/1, 322/2, 327, 328/1, 326, 329, 330 in Elavanthi Village, measuring a total extent of 55.045 acres under sale deed numbers 3107/06, 3116/06, 3112/06, 3114/06, 3108/06, 3110/06, 3109/06, 3111/06, 3115/06, 3113/06 and Survey No.87, 90, 477/2,3 in Kethanur Village measuring 12.19 acres under sale deed No.3106/06 on the file of Sub-Registrar of Assurances, Palladam.

4. The petitioner company is the absolute owner of the said properties and has been in possession and enjoyment of the same, right from the date of purchase. Thereafter, the petitioner installed 34 Wind Energy Generators (Wind Mills) in the said property so purchased by the petitioner which are operational till date. Further the petitioner have been paying all the statutory taxes, levies and duties including property tax, in respect of the said lands till date without any default. However, the issue involved in the present Writ Petition is that the Panchayat demanded a sum of Rs.5,000/- for the year 2006-2007 as corporate tax, against which, the present Writ Petition is filed.

5. The learned counsel for the petitioner would submit that the petitioner has been regularly paying the property tax as directed by the panchayat at Rs. 1320 per year, however the imposition of corporate tax at Rs.5000/- is an unsustainable one. Apart from that, the petitioner also paid professional tax and hence merely prays for appropriate orders.

6. The learned counsel for the respondent would submit that in order to resolve the dispute for paying the property tax, the District Collector arranged a meeting between the Wind Mill Association and Panchayat and the meeting was held in the presence of the District Collector on 23.05.2005. In the

meeting it was resolved that Wind Mill Owners have to pay an amount of Rs.5,000/- as property tax from the year 2005 onwards. Thereafter the panchayat demanded the property tax by invoking the provisions under sections 159 and 160 of the Tamil Nadu Panchayat Act (for brevity 'Act'). The short issue involved in the present Writ Petition is that the petitioner has to pay the property tax in addition to the property tax assessed by the panchayat and in the present case the learned counsel appearing for the petitioner would submit that the petitioner is already paying Rs.1320/- as property tax in favour of the local body.

7. However, the learned Government Pleader for the State would submit that if the petitioner had paid property tax that would be deducted from Rs.5000/- for each wind mill and therefore the petitioner has to pay the remaining amount.

8. The relevant portion of the counter reads as follows:

" 7. It is submitted that as per the orders of the District Collector and the inspector of Panchayat in order Nos. 1397/2005/A2 dated 23.05.2005 and 4315/05/A4 dated 27.09.2005, the General Body Meeting was conducted on 26.12.2006. In the General Body Meeting it was resolved, as per Resolution No.11 whereby the Wind Mill Owners are liable to pay an amount of Rs.5000/- per Wind Mill as tax for an year. Consequent to the said resolution, necessary steps were taken to collect the tax from the petitioner. Accordingly, a notice was sent on 11.12.2006 demanding a sum of Rs.1,70,000/- as tax since the petitioner is owning 34 Wind Mills, but the petitioner, inspite of receipt of notices had not submitted any reply or explanation or paid the tax. "

9. In view of the above, if any amount has been paid by the petitioner to the local body as property tax, that amount should be deducted from Rs. 5000/- and remaining amount has to be paid within four (4) weeks without any interest, from the date of receipt of a copy of this order. Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrn

To,

1.The Secretary,
The State of Tamil Nadu
Local Administration Department
Fort St. George
Chennai- 600 109.

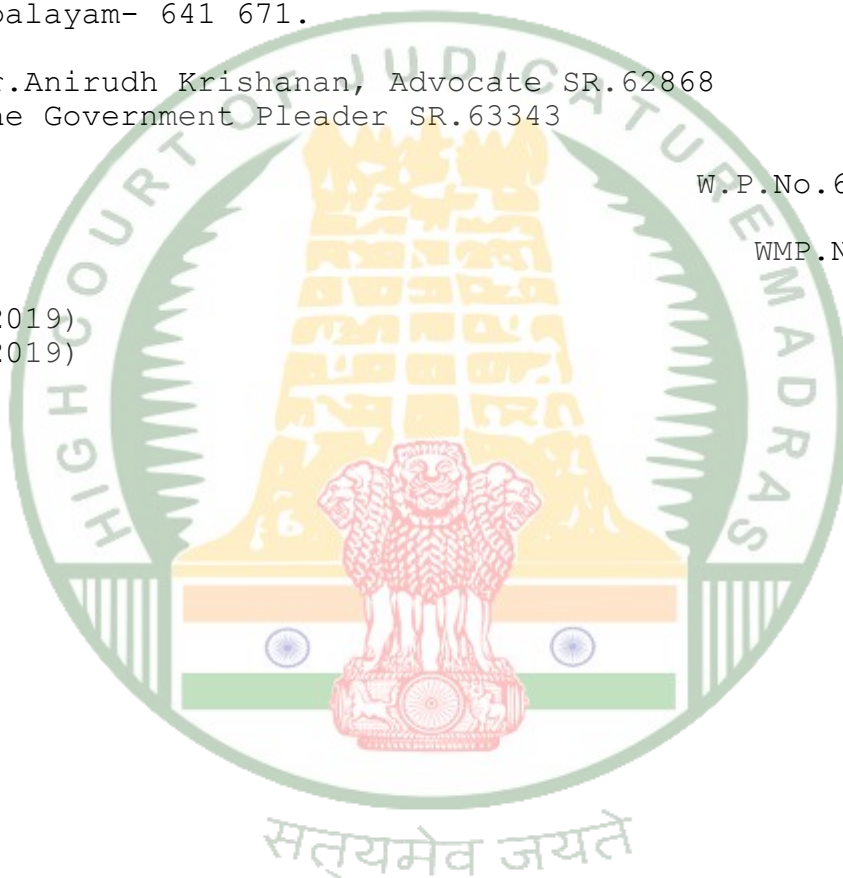
2. The President,
V.Vavipalayam Panchayat,
V.Vavipalayam- 641 671.

+lcc to Mr.Anirudh Krishanan, Advocate SR.62868

+lcc to the Government Pleader SR.63343

W.P.No.6542 of 2007
and
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SS(CO)
CB(22/10/2019)
CB(08/11/2019)



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