IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.31944 of 2004

Angappa Educational Trust,
Represented by its Founder – Trustee,
Mr.T.V.Angappan,
86, Race Course,
Coimbatore – 641 018. ... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St. Goerge,
Chennai – 600 009.

2.The Assistant Commissioner,
Urban Land Tax,
Coimbatore – 3.

3.The Special Tahsildar,
Urban Land Tax (Collection),
Office of the Special Tahsildar,
Coimbatore – 641 018. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first and third respondent herein comprised in the impugned Government Letter (Ms) No.622, Revenue Department, dated 16.12.2003 of the first respondent rejecting the claim of the petitioner for exemption from payment of urban land tax and the impugned demand notice dated 10.09.2004 issued by the third respondent and quash the same and consequently direct the first respondent to declare that the lands of the petitioner in S.F.No.223/1 and 224 of Kavundampalayam Village, Coimbatore are entitled for exemption from levy of Urban Land Tax under the provisions of Tamil Nadu Urban Land Tax Act, 1966.

For Petitioner : Ms.V.Sanjeevi

For Respondents : Mrs.K.Bhuvaneswari
Additional Government Pleader

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O R D E R

The petitioner has filed this petition to grant exemption from payment of Urban Land Tax to their land in Survey No.223/1 and 224 at Kavundampalayam Village, Coimbatore.

2. Section 29 (h) of the Tamil Nadu Urban Land Tax Act, 1966, exempts from tax to any Urban Land used by Schools, Colleges, or Universities for purposes directly connected with education. Since the petitioner Institution is an Educational Institution, falling under the purview of the Section 29 (h), they had sought for exemption of Urban Land Tax to the lands owned by them in Survey Nos.223/1 and 224 in Koundanpalayam Village, Coimbatore District. The respondents, by referring to the letter dated 16.04.1991 in (Ms). No.610, Revenue Department, had taken a stand that since the petitioner Institution had spent less than 90% of the income towards the Trust during the year 1987-1988, they are not entitled for exemption. Challenging the same, the petitioner herein had filed Writ Petition No.5781 of 1993, and this Court by an order dated 01.07.1999, had directed the first respondent herein to consider the application filed by the petitioner for exemption with reference to Section 29 (h) of the Tamil Nadu Urban Land Tax Act, 1966. In a subsequent order of this Court dated 01.07.1999 passed in W.P.No.4300 of 1991 also, the earlier order of this Court was referred to.

3. Pursuant to the orders of this Court, the present impugned order dated 16.12.2003 has been passed by placing reliance to the same letter (Ms). No.610, Revenue Department, dated 16.04.1991 and had rejected the petitioner's application stating that the exemption specified under Section 29 (h) of the Tamil Nadu Urban Land Tax Act, 1966 is under consideration of the Government for amendment.

4. Such a reasoning that an amendment is contemplated to Section 29 (h) cannot be a ground for rejection of the petitioner's request. When Section 29 (h) clearly indicates that the Educational Institutions in Urban Lands are provided exemption from Urban Land Tax, such a reasoning is forfeited and premature. It is rather unfortunate that in spite of the earlier orders of this Court dated 01.07.1999 passed in the Writ Petitions challenging the Government letter No.610, dated 16.04.1991, the respondents had stuck on to their same reasoning given in the earlier letter dated 16.04.1991 to the effect that necessary amendment of the Act is pending consideration of the Government.

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5. However, the fact remains that Section 29 (h) of the Tamil Nadu Urban Land Tax Act, 1966 is yet to be amended as on date. It would not be out of place to point out that other Institutions, identical to that of the petitioner Institution have been given the benefit of exemption exempting them from the purview of the Urban Land Tax, which fact is reflected in the affidavit filed by the petitioner herein. As such, the petitioner is entitled to succeed.

6. In identical circumstances, when the question of exemption to Educational Institutions came up for consideration, the Division Bench of this Court in a decision reported in 1999 (III) CTC 711 (Southern India Educational Trust Vs The Government of Tamil Nadu), had observed as follows:

> "4. .... it is relevant to notice that two types of exemptions contemplated under the Act. A reading of both the provisions would disclose that while Section 29 deals with a total and mandatory exemption, section 27 of the Act contemplates discretionary exemption which the Government is entitled to grant subject to the assessee satisfying the required criteria. In otherwords, the exemption under Section 29 of the Act is automatic, mandatory and total and there is no discretion left with the Government to refuse the grant of exemption, if the assessee fails within any one of the categories enumerated thereunder. When once an institution is either notified or is shown to the covered under Section 29, the exemption is complete and unconditional and the Revenue has no discretion to ignore or to refuse the exemption or to pass any order of assessment. "

7. The above observation of the Division Bench is self explanatory and as such, the petitioner Institution being an Educational Institution will also be entitled for exemption.

8. For all the foregoing reasons, the Writ Petition stands allowed. Consequently, the impugned Government letter (Ms) No.622, Revenue Department, dated 16.12.2003 passed by the first respondent is quashed and the first respondent is directed to declare that the petitioner's land in Survey Nos.223/1 and 224 in Koundanpalayam Village, Coimbatore District is exempted from levy of Urban Land Tax under the provisions of Section 29 (h) of the Tamil Nadu Urban Land Tax Act, 1966. Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

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9. At this juncture, the learned counsel for the petitioner submitted that pending the Writ Petition, they have remitted a sum of Rs.1,68,052/- towards Urban Land Tax to the respondents. Now that this Court has rendered a finding that the petitioner is entitled for exemption, the respondents shall return the said amount to the petitioner within the time prescribed in the above paragraph.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

pvs
To
1.Secretary to Government,
The State of Tamil Nadu,
Revenue Department,
Fort St. Goerge,
Chennai - 600 009.

2.The Assistant Commissioner,
Urban Land Tax,
Coimbatore - 3.

3.The Special Tahsildar,
Urban Land Tax (Collection),
Office of the Special Tahsildar,
Coimbatore - 641 018.

+1 CC to Mr.V.Sanjeevi, Advocate sr 23974.
+1 CC to The Govt. Pleader sr 24198.

W.P.No.31944 of 2004

SR(CO)
SP(22/04/2019)

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