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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.S.RAMESH

W.P. 39606 of 2004
and
W.P.M.P. 47232 of 2004

A/m. Aadipureeswarar &
Aadi Kesavaperumal Thirukoil,
rep. by its Executive Officer,
Chintadripet,
Chennai-600 002.

... Petitioner

Vs

1. The Commissioner of Land Reforms,
Ezhilagam,
Chepauk,
Chennai-600 005.

2. The Special Tahsildar,
Urban Land Tax,
Fort Tondiarpet Zone,
Chennai-600 005.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent culminating in proceedings Ref: Na.Ka.El/5399/2002 dated 19.11.2004, quash the same and direct the respondents to grant exemption to the petitioner under Sec.27(1)(a) of the Tamil Nadu Urban Land Tax Act in respect of the land owned by the petitioner situate in Survey No.3800, Tondiarpet, Chennai-600 021.

For Petitioner : Mr.A.K.Sriram,
for A.S.Kailasam Associates

For Respondents : Mr.A.Zakir Hussain,
Government Advocate



O R D E R

This Writ Petition has been filed challenging the impugned order of the 2nd respondent dated 19.11.2004 and quash the same and direct the respondents to grant exemption to the petitioner under Sec.27(1)(a) of the Tamil Nadu Urban Land Tax Act in respect of land owned by the petitioner situate in Survey No.3800, Tondiarpet, Chennai.

2. By placing reliance on the G.O.Ms.No.947, dated 17.09.1976, the petitioner herein, which is a religious institution, claims to have been made an application seeking for exemption from payment of urban land tax.

3. It is the submission of the learned counsel appearing for the petitioner that in view of the provisions of the Act as well as the qualification issued in the said Government Order, they are entitled for exemption. When an application seeking for exemption filed before the authorities, there is a duty cast on them to conduct a proper enquiry before considering the application seeking for exemption. In the instant case, an order seems to have been passed, since the petitioner had failed to establish before the authorities that they are entitled for an exemption and that they satisfy the pre-conditions for qualifying themselves for such exemption before the authorities. Before the Tribunal, the petitioner has not chosen to appear and hence, the appeal came to be dismissed for default. It is now represented by the learned counsel for the petitioner that though they have not appeared before the Tribunal, the fact remains that the income derived from the lands have been used for the object, for which the religious institution was constituted. Therefore, a liberal view could be taken.

4. Such a submission is opposed by the learned Government Pleader stating that the lands did not qualify for such an exemption. Therefore, the petitioner could not be granted an opportunity to putforth his plea before the 1st respondent in order to satisfy that they are entitled for exemption.

5. In view of the above submissions, without going to the merits of the claim made by the petitioner, the petitioner is granted a liberty to make a fresh application seeking exemption before the 1st respondent herein within thirty days from the date of receipt of the copy of this order. On receipt of such representation, if any, the 1st respondent herein shall consider the same, after giving due opportunity of personal hearing to the petitioner, and pass final orders in accordance with law within a period of three months from the date of receipt of such application. Till such time, the respondents shall not take any coercive action against the petitioner.



6. With the above observation, the present Writ Petition stands disposed of. No costs. Consequently, the connected Writ Petition Miscellaneous Petition is closed.

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-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rpp

To

1. The Commissioner of Land Reforms,
Ezhilagam,
Chepauk,
Chennai-600 005.

2. The Special Tahsildar,
Urban Land Tax,
Fort Tondiarpet Zone,
Chennai-600 005.

+1 CC to Govt. Pleader sr 55983.

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and
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CA(CO)
SP(14/08/2019)