IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.29790 of 2011
and
M.P. No.2 of 2011

Dr.G.Balasubramanian ...Petitioner

Vs

1. The Commissioner,
Coimbatore Corporation,
Town Hall, Coimbatore -1.

2. The Asst. Commissioner,
(North Zone),
Coimbatore Corporation,
Coimbatore -37. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent dated 21.11.2011 in VLT No.324667 to the property bearing G.S.No.192A, T.S.No.1370/1C2A10 to an extent of 10005 Sq.Ft. situated at Ganapathy Village, Sidhaputhur, Coimbatore and quash the same and directing the respondent to assess the property tax in accordance with law.

For Petitioner : Mr.B.Nedunchezhiyan

For Respondents : Mr.R.Sivakumar
Standing Counsel (Corporation)

O R D E R

The petitioner is the owner of vacant land bearing G.S.No.192A, T.S.No.1370/1C 2A10 of an extent of 10005 Sq.Ft. situated at Ganapathy Village, Sidhaputhur, Coimbatore.

2. The property was purchased, admittedly, under a registered Sale Deed dated 13.06.2008. In 2011, the petitioner, since he was planning to effect construction in the aforesaid land, had applied for planning permit before the Coimbatore Corporation and had sought assessment of the vacant land by the respondents. Though the petitioner has not circulated a copy of his application for assessment of property tax, the same has been filed as a document accompanying the counter filed by the first respondent/Commissioner, Coimbatore Corporation.

3. Be that as it may, the first respondent appears to have, upon receipt of the application, referred the matter to the Sub Registrar, as is evident from a note to the latter on 20.06.2011 requesting him to furnish the guideline value for adoption as the basis of assessment. He has thereafter fixed the value and has made an endorsement in the property tax assessment book retrospectively assessing the property for the periods 2005-06 (I and II half) upto 2011-12 (I and II half) (4 years). The basis of the assessment can be gleaned only from the counter at Paragraph No.4.

> '4.I further submit that it is only in accordance with the above powers and on the basis of the requests made by the petitioner vide his application dated 03.06.2011, the property of the petitioner was assessed. Before the said assessment the land of the petitioner was inspected by the concerned officers. Since the application is made in the year 2011, retrospectively the property can be assessed form the year 2005. For the period between 01.04.2005 to 01.10.2006, as per the then existing rate as Rs.397/- per Sq.ft., his half yearly tax liability is Rs.44,685/-. For the subsequent period between 01.04.2007 to 01.10.2007, at the rate of Rs.700/- per Sq.ft., his half yearly tax liability was Rs.78,789/-. Admittedly, the petitioner had purchased the property on 13.06.2008 for the value of Rs.1,90,09,500/-. Therefore, his half yearly tax liability for the period between 01.04.2008 to 01.04.2009 was Rs.2,13,857/-. In the meantime, the Government vide G.O.Ms.No.151, M.A. & W.S. Department dated 20.08.2009 had decided to impose property tax on vacant land on Sq.ft., basis, subject to minimum to maximum rates as fixed by the Government. Appropriate amendments were issued to the relevant provisions of the Act. According to the said Government Order this Corporation areas which

> fall under the A-Grade, the maximum rate fixed by the Government is 60 paise per sq.ft. Accordingly for the period between 01.10.2009 to till date the half yearly tax liability of the petitioner is Rs.6,003/-. The total outstanding from the period 01.04.2005 to 01.10.2011 is Rs.10,07,904/-. Out of which, in pursuant to the interim order dated 17.02.2012 passed by this Hon'ble Court in the above Writ Petition, the petitioner on 13.06.2012 had deposited an amount of Rs.5,50,175/-.'

4. No doubt, the petitioner has approached this Court suppressing the factum of filing an application for assessment before the respondents. The first respondent has specifically averred in counter that it is only subsequent to the receipt of the application that the authority had inspected the premises, arrived at a proper valuation of the property and had effected entries of assessment in the property tax assessment book determining the tax payable.

5. However, I am of the view that while it is incumbent upon the authority to fix the value of the property and consequently the rate of tax, he ought to have put the petitioner to notice of the valuation of the property obtained from the Sub-Registrar as well as the proposed tax prior to effecting the entries in the property tax assessment book. Moreover, the levy of tax is retrospective, in regard to periods of assessment commencing 2005-2006, whereas, admittedly, even as per the counter of the authority, the property has been purchased by the petitioner and has been in his possession only from 13.06.2008. Thus, in any event there can be no assessment of the property in the hands of this petitioner prior to 13.06.2008.

6.For the aforesaid reasons, the impugned entires in the property tax assessment book are set aside. The respondents are directed to issue a notice calling upon the petitioner to file his objections for assessment of the property in question for the period when it was under his ownership till date, furnishing therein the basis for such proposed assessment. This shall be done on or before 30.09.2019. The petitioner shall file his objections to the same, if any, on or before 21.10.2019 and orders shall be passed assessing the property in question for the period of ownership by the present petitioner within a period of four weeks thereafter i.e., on or before 25.11.2019, after hearing the petitioner.

7. This Writ Petition is disposed in the aforesaid terms. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rkp

To

1. The Commissioner,
   Coimbatore Corporation,
   Town Hall, Coimbatore -1.

2. The Asst. Commissioner,
   (North Zone),
   Coimbatore Corporation,
   Coimbatore -37.

+1cc to Mr.R.Sivakumar, Advocate, S.R.No.79142
+1cc to Mr.B.Nedunchezhiyan, Advocate, S.R.No.78739

W.P.No.29790 of 2011
and M.P. No.2 of 2010

SR(CO)
CS/01/10/2019