IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 08.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.4218 of 2013
& MP.No.1 of 2013

Sree Meenakshi Sundareswarar Devasthanam,
Rep. by its Executive Trustee,
V.C.Karthikeyan, Kosapet,
Vellore 632 001. ...Petitioner

Vs

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

2. The Assistant Commissioner of,
Urban Land Tax,
Vellore - 632 005.

3. The Thasildar,
Vellore. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the third respondent relating to the impugned notice dated 27.11.2012 with ref:No.RNR No.1356, 1357 & 1380 and quash the same.

For Petitioner : Ms.Gopika Nambiyar
for M/s.SaiBhartah & Ilan

For Respondents: Mr.A.Zakir Hussain,
Govt.Advocate for R1 to R3

O R D E R

Though the petitioner herein raised several grounds challenging the impugned notice of demand of Urban Land Tax for the fasli years 1401 to 1421, one of the main ground raised is that, no prior notice was served on the petitioner before a notice of demand was made.

2. This is a case where the petitioner herein had not filed their returns and hence they were proceed under Section 11 of the Tamil Nadu Urban Land Tax Act. As per the counter, it is stated that the petitioner herein had filed their objections, pursuant to the notice made under Section 11.

3. Section 14 of the Act contemplates that after determination of the market value under Section 11, the Officer shall pass the notice of demand specifying the amount of the Urban Land Tax, payable by the assessee and such a notice can contain such other particulars as may be prescribed, whereby calling upon the assessee to pay the demand amount within a period of 15 days from the service of the notice.

4. In the instant case, though the respondents claim to have sent a demand notice on 27.11.2012, the notice does not contain the details as to how the respondent had arrived at the Urban Land Tax determined. It is also seen that the demand notice was made after an assessment order was passed, pursuant to the petitioner's request exemption under Section 27(1) of the Act. When the respondent herein had chosen to issue demand notice after the period of two years, it is incumbent of the part of the respondent to set forth the details of how the demand has been arrived at. Mere reference to the amount of arrears of the Urban Land Tax cannot be construed to be a detailed explanation of how the amount fell due for the fasli years 1401 to 1421.

5. Moreover, the notice is a consolidated notice for the period of 21 years which is not permissible under Section 15 of the Tamil Nadu Urban Land Tax Act. Section 15 provides that in respect of the Urban Land Tax payable for over a fasli year or part thereof, a separate notice of demand containing the particulars mentioned in Section 14 should be served on the assessee. Apparently, the impugned notice is a consolidated notice for 21 years, which is in violation of the procedure contemplated.

6. Further, the present notice does not even refer to the survey numbers of the lands for which the Urban Land Tax is demanded. As rightly pointed out by the learned counsel, the petitioner herein is a Temple who owns various extents of lands in the town and village, and as such, it would be appropriate that they are appraised of the details of the property for which the demand is made. When Section 14 states that, such particulars should be reflected in the notice of demand and Form -VI also contemplates the description of the property for which the demand is to be made, the non-mention of the survey numbers for the demand notice is improper.

7. For all these reasons, the demand notice is liable to be set aside. Nevertheless, if the respondents are of the view that, they have a valid demand over the subject properties from the petitioner herein, it would be open to them to initiate proceedings in accordance with the provisions of Tamil Nadu Urbal Land Tax Act, for which purpose, this Court is inclined to grant them the required liberty.

8. In the light of the above observations, the impugned demand notice dated 27.11.2012 on the file of the Tahsildar, Vellore is set aside. Consequently, the respondents herein is granted liberty to initiate a fresh proceedings, if they desire so, demanding the Urban Land Tax from the petitioner. While resorting such a procedure, the first respondent / Special Commissioner and Commissioner of Land Reforms, shall extend due opportunity to the petitioner to raise their objections, including the opportunity of personal hearing.

9. With the above observations and directions, the writ petition stands allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Pkn

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2. The Assistant Commissioner of,
   Urban Land Tax, Vellore - 632 005.

3. The Thasildar, Vellore.

+1cc to M/s.Sai & Bharath, Advocates, vide SR.No.57627
+1cc to the Govt.Pleader, Vide Sr.No.57332

W.P.No.4218 of 2013

Kak(28/08/2019)