IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03-07-2019
CORAM
THE HON'BLE MR.JUSTICE M.SUNDAR
W.P.No.10873 of 2019
And
W.M.P.Nos.11315 and 11317 of 2019

AA 226 Modakkurichi Primary Agricultural
Cooperative Credit Society,
Represented by its President,
P.V.Saravanan, M/53,
S/o.Venkatachalam,
Modakkurichi-638 104,
Erode District. .. Petitioner

..Vs..

The Executive Officer,
Modakkurichi Town Panchayat,
Modakkurichi-638 104,
Erode District. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the entire records relating to the impugned demand notice issued by the respondent in his proceedings Pa.Vae.No.18/2018, dated 21.1.2019 and consequential order passed by the respondent in his proceedings Na.Ka.No.167/2018, dated 13.2.2019 and quash the same.

For Petitioner : Ms.R.Hemalatha for
Mr.C.Prakasam.

For Respondent : Mr.K.Sathish Kumar,
Standing Counsel.

O R D E R

Ms.R.Hemalatha representing Mr.C.Prakasam learned counsel on record for writ petitioner and Mr.K.Sathish Kumar learned Standing Counsel for sole respondent/Local Body Municipality are before this Court.

2. With consent of learned counsel on both sides, the main writ petition itself is taken up, heard out and is being disposed of.

3. Subject matter of this writ petition is enhancement of property tax for an immovable property belonging to the writ petitioner-Society, being a property situate at Door No.153 to 157, Anna Street, Modakkurichi, Erode District (hereinafter 'said property' for the sake of brevity, convenience and clarity).

4. It is submitted without any disputation or disagreement that property tax for said property was enhanced from Rs.49,290/- (Rupees Forty Nine Thousand Two Hundred and Ninety only) to Rs.98,728/- (Rupees Ninety Eight Thousand Seven Hundred and Twenty Eight only). This Court is informed that such enhancement of property tax for said property is with effect from first half-year 2018-2019 i.e., with effect from 1.4.2019.

5. There is also no disputation or disagreement that such enhancement was made inter-alia by negativing writ petitioner's objections including an objection that said property is not a commercial building. To be noted, writ petitioner is a Primary Agricultural Cooperative Credit Society.

6. It is also not disputed that enhancement of property tax which forms the subject matter of instant writ petition is governed by 'The Tamil Nadu District Municipalities Act 1920 (Tamil Nadu Act V of 1920)' which shall hereinafter be referred to as 'District Municipalities Act' for the sake of brevity, convenience and clarity.

7. The undisputed position before this Court as it unfurls in the hearing today is that the writ petitioner objected to a public notice proposing aforesaid enhancement inter-alia on the ground that said property is not a commercial building, objections were negatived by sole respondent vide order dated 13.2.2019 bearing Reference Na.Ka.No.167/2018

8. Prior to the aforesaid 13.2.2019 order negativing writ petitioner's objections, a demand was raised on the writ petitioner, demanding payment of property tax at the enhanced rate and this is qua notice dated 21.1.2019 bearing Reference g.bt/.vz;?18-2018. This demand notice dated 21.1.2019 as well as the aforesaid order dated 13.2.2019 which is captioned 'fojf;Fwpg;g[' negativing writ petitioner's objections and confirming enhancement have been called in question in the instant writ petition and therefore aforementioned demand notice dated 21.1.2019 shall be referred to as 'impugned order-I' and

the aforementioned order dated 13.2.2019 shall be referred to as 'impugned order-II' and the two shall collectively be referred to as 'impugned orders' in plural.

9. Most important undisputed position that emerges/ unfurls from the submissions made at the Bar today in the hearing is that the writ petitioner has alternate remedy by way of appeal to the 'Taxation Appeals Committee' ('TAC' for brevity) for assailing impugned order-II and such statutory appeal has been provided for under Section 124-I of the District Municipalities Act.

10. It is submitted that a statutory appeal if preferred will be governed inter alia by 'The Tamil Nadu Municipal Taxation Appeals Committee (Transaction of Business) Rules, 1988' which shall hereinafter be referred to as 'TAC Rules' for brevity.

11. What is TAC itself has been set out in Section 23-A of District Municipalities Act and the said provision reads as follows:

> "23-A. Taxation Appeals Committee.— Notwithstanding anything contained in this Act ,—
>
> (1) for every Municipality, there shall be a Taxation Appeals Committee which shall consist of the Chairman of the Municipal Council who shall also be the Chairman of the Taxation Appeals Committee [and four Councillors selected by the Council];
>
> (2) the business of the Taxation Appeals Committee shall be transacted in accordance with the rules made by the State Government in this behalf."

12. It is submitted without any disputation or disagreement that there is no TAC as of today but constitution of the same is in the anvil.

13. Challenge to impugned order-II turns heavily on facts, parameters/ determinants and methodology of computation. Therefore, it would be most appropriate to relegate the writ petitioner to Statutory Appeal before TAC under Section 124-I of District Municipalities Act in accordance with TAC Rules and other applicable Rules.

14. Learned counsel for writ petitioner also, on instructions, submits that the writ petitioner is ready to avail the alternate remedy of appeal before TAC.

15. In the light of the aforesaid trajectory of the hearing today, more particularly, in the light of undisputed obtaining scenario that unfurled in the hearing today, following order is passed:

(a) Impugned order-I is set aside with liberty to respondent to issue fresh demand after disposal of appeal by TAC after the same is constituted, which this Court is informed is in the anvil.

(b) Impugned order-II is not disturbed or interfered with but it is left to the writ petitioner to file a Statutory Appeal before TAC in accordance with TAC Rules and other applicable provisions under District Municipalities Act and Rules thereunder after constitution of TAC.

(c) If the writ petitioner does not file appeal before TAC, within the prescribed time limit of 30 days after constitution of TAC it will be open to the respondent to reissue the impugned order-I without reference to this Court. The prescribed time limit is 30 days, however, in instant case will start operating only from the date of constitution of TAC.

(d) There shall be no coercive action against the writ petitioner, till expiry of 30 days from the date of constitution of TAC subject to the condition that writ petitioner continues to pay half-yearly property tax for said property at the existing rate of Rs.49,290/- per half-year.

16. This writ petition is disposed of with the above directions. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Executive Officer,
Modakkurichi Town Panchayat,
Modakkurichi-638 104,
Erode District.

+1cc to Mr.K.Sathish Kumar, Advocate sr.56150

WP 10873 of 2019

kk(co)
nr 20/08/2019