IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.12254 of 2019
and
W.M.P.No.12534 of 2019

Christian Medical College Vellore Association
Ida Scudder Road
Vellore - 632 004
Rep.by its Council Secretary ..Petitioner

vs

1. The Commissioner,
   Vellore City Municipal Corporation,
   Infantry Road,
   Vellore - 632 001

2. The Assistant Commissioner,
   Zone-2,
   Vellore City Municipal Corporation,
   Infantry Road,
   Vellore - 632 001

3. Revenue Assistant
   Zone-2,
   Ward Office - 11, Sathuvachari
   No.51, Phase-2,
   Sathuvachari
   Vellore - 632 009

4. Ward Officer
   Ward Officer - 11
   Ward Office - 11, Sathuvachari
   No.51, Phase-2,
   Sathuvachari
   Vellore - 632 009 ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Impugned Order i.e. the Final Demand Notice dt.16.04.2019 issued by the Respondents and quash the same, and pass such further or other orders as the Hon'ble Court may deem fit and proper in the circumstances of the case and thereby render justice.

For Petitioner : Mr.Krishna Srinivasan
For M/s.S.Ramasubramaniam
and Associates

For Respondents : Ms.P.Shanthi
Standing counsel

O R D E R

Mr.Krishna Srinivasan of M/s.S.Ramasubramaniam and Associates (Law Firm) on behalf of writ petitioner is before this Court, Ms.P.Shanthi, learned Standing counsel for Vellore Municipal Corporation is before this Court on behalf of all the four respondents.

2. Subject matter of this writ petition pertains to enhancement of property tax for the immovable property belonging to the writ petitioner.

3. Considering the trajectory which the hearing has taken today, the matter now turn on a very narrow compass. Be that as it may, with consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

4. This takes us back to the trajectory of the hearing today. Mr.Krishna Srinivasan, learned counsel for writ petitioner very fairly submitted that he will avail the alternate remedy of an appeal to the Taxation Appellate Tribunal. Therefore, short facts shorn of elaborations will suffice.

5. Suffice to say that there was an exemption granted to parts of properties owned by the writ petitioner and this is vide various Government orders which date back to 1933 and spanning over a 30 year period from 1933 to 1963. Complaining that exorbitant increase in the enhancement of property tax made, without adhering to the procedure and in violation of the exemption criteria, instant writ petition was filed.

6. When the writ petition came up for admission, my predecessor learned Judge passed an order dated 26.04.2019 and the order / proceedings reads as follows:

> 'Mr.Silambannan, learned Senior Counsel for Mrs.P.Shanthi, learned Standing Counsel for the respondents seeks four (4) weeks time to file counter.
>
> 2. The petitioner will pay the admitted prevailing tax at the current rates, of a sum of Rs.31,42,202/- as well as 100% of the same as per

G.O.73 of 2018, within a period of two (2) weeks from today.

3. There will be a status quo of recovery with respect to the excess of demand raised in the impugned demand dated 16.04.2019, subject to the aforesaid condition being satisfied.

4. The parties are at liberty to proceed with the adjudication of the objections filed by the petitioner on 20.12.2018 before the Commissioner, Vellore City Municipal Corporation, Vellore. Since the parties appear to be inclined for an early resolution of the matter, let the adjudication proceedings commence straightaway, simultaneous with the pendency of this writ petition.

5. The respondent is at liberty to take up the objections filed by the petitioner on 20.12.2018 for hearing, here the petitioner and pass a speaking order in respect of each of the objections that have been raised including the question of exemption from payment of property tax.

6. List this matter on 12.06.2019 under the caption 'for hearing'.'

7. There is no disputation or disagreement before this Court that directions adumbrated in Paragraphs 2 and 3 of the aforesaid order / proceedings are being complied with or in other words, writ petitioner is in compliance with the conditions adumbrated in paragraphs 2 and 3 of the order / proceedings extracted / reproduced supra and there is status quo regarding impugned demand.

8. Learned counsel for writ petitioner emphatically submitted that post above said order / proceedings, the respondent Municipal Corporation embarked upon the exercise of considering the objections, granted a personal hearing and passed an order dated 28.05.2019, which has also now been placed before this Court, as part of the case file i.e., as part of additional typed set of papers filed on 12.06.2019. Adverting to this order dated 28.05.2019, learned counsel for writ petitioner submitted that the orders or the procedures adopted to pass the said order is not in consonance with the order / proceedings made by my predecessor learned Judge on 26.04.2019, which has been extracted and reproduced supra. This Court does not express any opinion on this submission, but this Court deems it appropriate to leave it open and say that it is left open to the writ petitioner to canvass all grounds including the grounds canvassed in the instant writ petition before the Taxation Appellate Tribunal more so as the writ petitioner has opted for alternate remedy of appeal by its own volition.

9. In the light of the stated position of the writ petitioner that the writ petitioner would avail of appeal remedy before the Taxation Appellate Tribunal, it is made clear that it is open to the writ petitioner to file such an appeal. As and when the writ petitioner files the appeal, the writ petitioner will be governed by the conditions stipulated for such an appeal.

10. If there is delay in filing such appeal, it is open to the writ petitioner to seek condonation of delay as well as exclusion of time spent in the instant writ petition under Section 14 of the Limitation Act and if the writ petitioner makes such prayers, it is open to the Tribunal to decide the same on its own merits.

11. Be that as it may, until the appeal before the Tribunal is decided, one way or the other, paragraphs 2 and 3 of the aforesaid order / proceedings dated 26.04.2019 made by my predecessor learned Judge will continue to operate.

12. This writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
   Vellore City Municipal Corporation,
   Infantry Road,
   Vellore - 632 001

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+1 cc to M/s.S.Ramasubramanian, Advocate, S.R.No.54996

W.P.No.12254 of 2019

KS(CO)
SSM(30/07/2019).