IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.Nos.21626 amd 21673 of 2019
&
W.M.P Nos.20852 & 20891 of 2019

GHCL Limited
Rep. By its Senior General Manager (Finance)
Mr.N.Kumar
(Unit - Sree Meenakshi Mills)
Paravai Samanallur P.O
Madurai - 625 402 .. Petitioner in both W.Ps

.Vs.

1. The Additional Chief Secretary Commissioner
Land Reforms
Chepauk, Chennai

2. The Asst. Commissioner
Urban Land Tax
Race Course Road
Madurai - 625 002

3. The Tahsildar
Madurai North Taluk
Madurai ... Respondents in both W.Ps

Prayer in W.P.No.21626 of 2019 : Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the proceedings of the impugned order dated 06.05.2019 in RC.No.B2/7397/2007 by first respondent and quash the same and direct the second respondent to pass fresh assessment orders to levy urban land tax after considering the objections of the petitioner for the lands comprised in Survey No.280/1, 281/2, 280/3, 282/13, 280/5, 281/1, 281/2, 281/3, 281/4 measuring an extent of 188 ground and 291 sq.ft in Paravai Bit- I Part Village, Madurai North Taluk.

Prayer in W.P.No.21673 of 2019 : Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the proceedings of the impugned order dated 06.05.2019 in RC.No.B2/7397/2007 and quash the same and direct the second respondent to pass fresh assessment orders to levy urban land tax after considering the objections of the petitioner for the lands comprised in Survey No.114/5, 114/6, 114/7, 114/8, 114/9, 247/1, 282/B, 281/5 (New S.No.56/5), 281/6 (New S.No.56/6, 281/7 (New S.No.56/7), 281/8 (New S.No.56/8), 90/1, 90/2, 90/3, 90/4, 90/5, 90/6, 90/7, 90/8, 90/9, 90/10 and 90/11 measuring an extent of 430 ground and 390 sq.ft in Paravai Bit- I Part Village, Madurai North Taluk.

For Petitioner : Mr.K.Balamurali
for M/s.Shivakumar and Suresh

For Respondents: Mr.R.P.Pratap Singh
Government Advocate

COMMON ORDER

This common order will dispose of both these writ petitions.

2. Mr.K.Balamurali of M/s.Shivakumar and Suresh (Law Firm) on behalf of the writ petitioner in both these writ petitions and Mr.R.P.Pratap Singh, learned Government Advocate, who accepts notice on behalf of all the three respondents, in both these writ petitions, are before this Court.

3.With consent of learned counsel on both sides, main writ petitions are taken up, heard out and are being disposed of.

4.From the submissions made at the Bar today, the scenario that emerges is that both the writ petitions now turn on a very narrow compass. Therefore, short facts shorn of details/particulars and elaboration will suffice. In other words, factual matrix in a nutshell imperative for appreciating this order will suffice.

5. In the aforesaid backdrop, suffice to state that these two writ petitions arise under 'The Tamil Nadu Urban Land Tax Act, 1966 (Tamil Nadu Act, XII of 1966)' and 'The Tamil Nadu Urban Land Tax Rules, 1966' (hereinafter 'said Act' and 'said Rules' respectively for the sake of brevity and clarity), that writ petitioner owns two parcels of lands admeasuring 188 grounds and 430 grounds, that levy of tax under said Act and said Rules/quantum became subject matter of disputation in two parallel proceedings with regard to said parcels of land

admeasuring 188 grounds and 430 grounds, that the matter travelled up the hierarchy of authorities/quasi judicial authorities and ultimately culminated in a revision before the first respondent, that the revision is a statutory revision under Section 30 of said Act, that the first respondent as revisional authority passed two separate orders (both dated 06.05.2019) with regard to aforesaid two parcels of land and that these two orders have been called in question in these two writ petitions on hand. These two orders passed by the first respondent revisional authority in statutory revision petitions under Section 30 of said Act, which have been called in question in these two writ petitions, shall hereinafter be collectively referred to as 'impugned orders' in plural and wherever necessary, 'impugned order' in singular shall also be deployed for referring to one of the two impugned orders.

6. A perusal of impugned orders in the light of the submissions made by learned counsel for writ petitioner and State counsel bring to light that the matter has a long and chequered history. Be that as it may, as already alluded to supra, in the light of the submissions made at the Bar today, these writ petitions now turn on a very narrow compass and therefore, this Court is not embarking upon the exercise of setting out the long history, track and trail which this matter has taken through a hierarchy of authorities/quasi judicial authorities to reach the first respondent by way of aforesaid statutory revisions, which have culminated in impugned orders.

7. With regard to challenge to the impugned orders, notwithstanding very many grounds that have been raised in the affidavits filed in support of these two writ petitions and notwithstanding very many grounds /contentions raised in the affidavits filed in support of these two writ petitions, learned counsel for writ petitioner abridges his submissions to two points. First point is that the writ petitioner is running a Government aided schools in the two parcels of land and therefore they are entitled to exemption under Section 29(h) of said Act as well as benefit of G.O.Ms.No.2625, Revenue Department dated 27.12.1976. This point was raised before the first respondent revisional Authority, but the same has not been considered, is learned counsel's say

8. The second ground of attack is with regard to sale deeds which were produced by the writ petitioner. It was contended that the writ petitioner produced four sale deeds in respect of adjacent lands where sales had taken place on the basis of market value and according to writ petitioner counsel these four sale deeds have been discarded. It is the specific say of learned counsel for writ petitioner that according to these four sale deeds, adjacent lands were sold at the rates of Rs.660/-per

ground and Rs.136/- per ground, but Rs.10,000/- per ground has been taken as the market value in the case of the writ petitioner. This has not been considered by the revisional authority is the second point that has been urged.

9. In response to the aforesaid two points urged / focused in the hearing today, learned State counsel pointed out that the writ petitioner has not set out with clarity and specificity the extent of land in the two parcels of land which are being used for housing the schools and on inspection it was found by the Assistant Commissioner, Madurai that the subject lands were not fully utilized for owners occupation. With regard to the second contention, learned State counsel submitted that four sale deeds are of the year 1971, 1974 and 1981. To be noted, two sale deeds are of the year 1974, one sale deed is of the year 1971 and the other sale deed is of the year 1981. Considering the period of assessment, these sale deeds have not been taken as a safe guide for computation, learned State Counsel say.

10. In this regard, this Court has carefully considered the two points projected i.e., two points on which submissions in the hearing were predicated and the response of the State counsel to the same.

11. With regard to the first contention touching upon benefit of Section 29(h) of said Act and G.O.Ms.No.2625, Revenue Department dated 27.12.1976, the contention of the writ petitioner articulated before Revisional Authority and as extracted in the impugned orders, reads as follows:

> '9.As per G.O.Ms.No.2625, Revenue Department dated 27.12.1976 the lands occupied by the Urban Land Owner is eligible for 50% concession. Though the lands are being utilized for labourers colony school park and road 50% concession on ULT levy was not allowed.'

12. The contra submission or response in this regard articulated before Revisional Authority, as extracted and reproduced in the impugned orders reads as follows:

> '(vii) With reference to the contention 7, it is found that as per G.O.Ms.No.2625, Revenue Department dated 27.12.1976 Government issued orders to the effect that where any building is occupied wholly by the owner for residential purposes the tax payable on the land on which the building is constructed and the urban land appurtenant to it will be reduced by 50%.
> On inspection it was found by the Assistant Commissioner (Land Reforms & Urban Land Tax) Madurai that the subject lands were not fully utilized for the purpose of owner's occupation. Hence, 50% concession on Urban Land Tax levied was not allowed in favour of the Assessee. '

13. With regard to the second submission touching upon sale deeds, the contention of the writ petitioner as extracted in the impugned orders reads as follows:

''8. During the hearing held on 26.04.2019 the Counsel for the petitioner further contented that Paravai Village was divided into two bits. M/s.Gujarat Heavy Chemicals Limited situate on the extent of 10 acres of land; the land is also utilized for labourers colony, school and road. Four Sale Deeds effected in 1971, 1974 & 1981 (210/1974, 233/1974, 471/1971 and 896/1981) in respect of adjacent lands were submitted in which sales took place on the basis of market value Rs.660/- per ground and Rs.136/- per ground. However, these four Sale Deeds were discarded by the Assessing Authority. In contra Rs.10,000/- per ground market value was determined on higher side as on 01.07.1981 and the tax payable is Rs.28,139/- per Fasli. Provision contained in 5C (ii) of Tamil Nadu Urban Land Tax Act, 1966 Amendment Act, 1975 was not appreciated by the Assessing Authority.'

14. Response to the same as in impugned orders is as follows:

(viii) With reference to the contention 8, it is found that as per G.O.Ms.No.1465, Revenue Department, dated 25.06.1981 the provisions of the Tamil Nadu Urban Land Tax Act, 1966 were extended to Tirunelveli Urban Agglomeration and Peripheral area of Madurai, Coimbatore,Salem & Tiruchirappalli Urban Agglomeration from Fasli 1391. As per G.O.Ms.No.403, Revenue Department, dated 14.03.1988 each area now extended had to be treated as a separate urban area for the purpose of assessment and market value as on 01.07.1981 shall be adopted for levying of Urban Land Tax.

(vi) As the subject lands owned by the Petitioner fall under Zone - II of Paravai village (except Survey No.147), the market value at the rate of Rs.10,000/- per ground as on 01.07.1981 was adopted by the Assistant Commissioner (Land Reforms & Urban Land Tax) Madurai for levy of Urban Land Tax.

15. A perusal of the impugned orders reveals that these rival submissions have not been sifted through. With regard to the contention of the writ petitioner that no inspection was conducted by the Assistant Commissioner, Madurai qua the two parcels of lands, as it is in the realm of factual disputation, turns on facts, considering the narrow scope on which these writ petitions now turn, this Court does not embark upon the exercise of ascertaining whether an inspection was conduced or not. This is more so in the light of the order which this Court now proposes to pass. Submission of the State counsel that the sale

deeds are of the years 1971, 1974 and 1981 and therefore, they are being construed as not a safe guide for computation is tenable and the same is accepted.

16. In the light of the narrative thus far, the following order is passed:

a) Two Impugned orders of first respondent being orders bearing reference RC.No.B2/7397/2007 and RC.No.B2/7397/2007 (Both dated 06.05.2019) are hereby set aside and the matter is remanded back to the first respondent authority;

b) To be noted, the remand is a very limited remand and it is confined to only one point and that one point pertains to the benefits claimed by the writ petitioner under Section 29(h) of said Act and vide G.O.Ms.No.2625, Revenue Department dated 27.12.1976;

c) First respondent shall have an inspection conducted by the jurisdictional Assistant Commissioner with regards to lands in question and get a report from the jurisdictional Assistant Commissioner within four weeks from the date of receipt of a copy of this order.

d) After receipt of report from the jurisdictional Assistant Commissioner, first respondent shall give an opportunity of personal hearing to the writ petitioner's authorized representative, and consider the rival submissions, give a specific and categoric finding regarding the benefits claimed by the writ petitioner under Section 29(h) of said Act and G.O.Ms.No.2625, Revenue Department dated 27.12.1976 .

e) Though obvious, it is made clear that in all other aspects, impugned orders remain undisturbed. For the purpose of facilitating this limited remand and for the purpose of having a fresh order passed, the impugned orders have been set aside in their entirety.

These writ petitions are disposed of with the aforesaid directions. No costs. Consequently, connected miscellaneous petitions are closed.

gpa

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Additional Chief Secretary Commissioner
   Land Reforms
   Chepauk, Chennai

2. The Asst. Commissioner
   Urban Land Tax
   Race Course Road
   Madurai - 625 002

3. The Tahsildar
   Madurai North Taluk
   Madurai

+2CCs to Mr.Shivakumar, Advocate, SR.No.63235 & 63235
+2ccs to Mr. Advocate, SR.No.63804 & 63805

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W.M.P Nos.20852 & 20891 of 2019

Kak(12/09/2019)