IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.36636 of 2007
and M.P.No.1 of 2007

Jay Shree Tea and Industries Ltd.,
Rep. by its Senior Vice-President,
Sholayar PO 642 124,
Coimbatore District. ... Petitioner

Vs

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai.

2.The Tahsildar,
Valparai.

3.The District Collector,
Coimbatore.

4.The Executive Engineer,
Public Works Department,
Valparai. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Certiorarified Mandamus, to call for the records of the 1st respondent in G.O.Ms.No.287, Revenue (Ni.Mu.2(2)) Department dated 3.7.2002, quash the same and forbear the respondents herein from dispossessing the petitioner herein in respect of the extent of 9.94 acres in Survey No.46, Annamalai Hills, Valparai, Coimbatore District and recovering the alleged lease amounts as per G.O.Ms.No.287, Revenue (Ni.Mu.2(2)) Department dated 3.7.2002.

For Petitioner : Mr.T.S.Baskaran

For Respondents : Mr.K.Ravi Kumar
Additional Government Pleader

O R D E R

Heard Mr.T.S.Baskaran, learned counsel for the petitioner and Mr.K.Ravi Kumar, learned Additional Government Pleader appearing for the respondents.

2.The only point for consideration in this writ petition is whether the petitioner is liable to pay local cess and local cess surcharge for the period from 1994 to 1998 at the rate of 100% and 500% respectively. Under the impugned G.O., the respondents have claimed that the petitioner is liable to pay local cess at 100% from 1994 to 1998 and local cess surcharge at 500% for the same period.

3.According to the respondents, Sections 155 and 156 of the Panchayat Act enables them to claim local cess and local cess surcharge upto the year 1994. But, it is the contention of the petitioner that they are not liable to pay local cess and local cess surcharge in view of the following judgments rendered by this Court:

(i) Perumal Udaiyar and Others vs. The Government of Tamil Nadu reported in (2001) 3 LW 864.

(ii)Dalmia Cement (Bharat) Ltd. vs State Of Tamil Nadu reported in 2002 1 MLJ 774 .

4.According to the learned counsel for the petitioner, as per the aforesaid judgments, local cess and local cess surcharge can be collected only upto 04.04.1991 and not thereafter. Since under the impugned G.O., the respondents are claiming local cess and local cess surcharge at the rate of 100% and 500 % respectively for the period from 1994 to 1998, the said G.O, is not in accordance with law. The learned counsel for the petitioner further submitted on instructions that the petitioner is willing to pay the lease amount as quantified by the respondents under the impugned G.O. from the year 1994 which is 14% of the land value. The only dispute raised by him is with regard to the demand for local cess and local cess surcharge for the period from 1994 upto 1998.

5.It is an admitted fact that insofar as the payment of the local cess and local cess surcharge from 1998 is concerned, local cess is payable at 12% and local cess surcharge is payable at 10% which is in accordance with G.O.No.460 dated 04.06.1998. As far as G.O.No.460 dated 04.06.1998 is concerned, no dispute has been raised by the petitioner. Admittedly, in view of the pendency of the writ petition even the undisputed amounts have not been paid by the petitioner, though a sum of Rs.5 lakhs was paid by them, pursuant to the orders of the Division Bench of this Court in W.A.No.1635 of 2002 dated 04.06.2002. The learned counsel for the petitioner has placed before this court the details of the undisputed amounts payable by the petitioner to the respondents amounting to Rs.5,52,023.27 are detailed hereunder:

Year	Land Value	Lease Amount	Local Cess	Local Cess Surcharge	Total
1994	Rs.4,07,560.00	Rs.57,058.40 (14%)	-	-	
1995	Rs.4,56,467.00	Rs.63,905.38 (14%)	-	-	
1996	Rs.4,56,467.00	Rs.63,905.38 (14%)	-	-	
1997	Rs.4,56,467.00	Rs.63,905.38 (14%)	-	-	
1998 (155 days)	Rs.4,56,467.00	Rs.27,137.90 (14%)	-	-	
1998 (210 days)	Rs.6,41,303.00	Rs.7,379.37 (2%)	Rs.7,379.37 (2%)	Rs.36,896.72 (10%)	
1999 (365 days)		Rs.12,826.06 (2%)	Rs.12,826.06 (2%)	Rs.64,130.03 (10%)	
2000 (365 days)		Rs.12,826.06 (2%)	Rs.12,826.06 (2%)	Rs.64,130.03 (10%)	
2001 (181 days)		Rs.6,413.03 (2%)	Rs.6,413.03 (2%)	Rs.32,065.01 (10%)	
TOTAL		Rs.3,15,356.96	Rs.39,444.52	Rs.1,97,221.79	Rs.5,52,023.27

6.This Court has perused and examined the impugned G.O. Excepting for claiming that the petitioner is liable to pay local cess and local cess surcharge at 100% and 500% respectively, no reasons have been given for arriving at the said demand. No opportunity has also been given to the petitioner by the respondents before passing the impugned G.O. with regard to the levy of local cess and local cess surcharge for the period from 1994 to 1998.

7.As seen from the impugned G.O., the claim towards local cess and local cess surcharge for the period from 1994 to 1998 is almost equivalent to the land value. For example in the year 1994, the admitted land value is Rs.4,07,560.00. But the local cess at 100% works out to Rs.57,058.40 and local cess surcharge at 500% works out to Rs.2,85,292.00 and in all, a sum of Rs.3,42,350.40 is payable towards local cess and local cess surcharge. Similarly for the other years also upto 1998, the local cess and local cess surcharge payable by the petitioner is almost equivalent to the land value for the respective years. Considering all the above mentioned factors, the respondents ought to have given sufficient opportunity to the petitioner to raise objections if any and only after considering the objections, the respondents ought to have determined the local cess and local cess surcharge for the period from 1994 to 1998. Admittedly, the respondents have not issued any notice to the petitioner before arriving at the sum payable by the petitioner towards local cess and local cess surcharge for the period from 1994 to 1998. The petitioner disputes the said claim on the ground that the claim is (a)exaggerated and excessive, (b) almost equals the value of the land for that particular year and (c) not considered the decisions rendered by the Madras High Court referred to supra which according to him, disentitles the respondents to claim local cess and local cess surcharge at the rate of 100% and 500% respectively for the period from 1994 to 1998.

8.For the foregoing reasons, this Court is of the considered view that principles of natural justice has been violated before passing the impugned G.O. which also claims payment of local cess and local cess surcharge at 100% and 500% respectively. Therefore, this Court directs the petitioner to pay a sum of Rs.5,52,023.27 after deducting the payment already made by the petitioner within a period of 3 months from the date of receipt of a copy of this order. If the petitioner fails to the pay the aforesaid amount within the stipulated period, the writ petition shall stand automatically dismissed. However, if the petitioner complies with the first part of the direction and pays the admitted amount, on receipt of the said payment by the respondents, the impugned G.O. shall stand quashed and the matter shall be remanded back to the respondents for fresh consideration and the respondents after giving sufficient opportunity to the petitioner including granting them right of personal hearing shall pass final orders with regard to local cess and local cess surcharge payable by the petitioner for the period from 1994 to 1998 within a period of three months thereafter.

9.With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant RegistrarADI (MDU))

//True copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai.

2.The Tahsildar,
Valparai.

3.The District Collector,
Coimbatore.

4.The Executive Engineer,
Public Works Department,
Valparai.

+1cc to Mr.T.S.Baskaran, Advocate SR.No.15427

+1cc to Government Pleader SR.No.15689

W.P.No.36636 of 2007

SS(CO)
GMY(22/05/2020)