IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 34456 of 2005
and
W.M.P. No. 37360 of 2005

M/s. Rayala Corporation Private Limited,
Old No.781, New No.158,
Anna Salai, Chennai - 600 002. ... Petitioner

Vs

1. Special Tahsildar,
Urban Land Tax,
Egmore Nungambakkam Taluk,
Mayor V.R. Ramanatha Salai,
Chetpet, Chennai - 600 031.

2. The Assistant Commissioner,
Urban Land Tax,
Egmore, Chennai - 600 029. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the First Respondent in respect of fasli years 1401 to 1415 and quash the demand notice in Form-VI dated 05.07.2005 and direct the First Respondent to re-determine the Urban Land Tax payable by the Petitioner company in accordance with law.

For Petitioner : Mr. S. George Cherian

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

ORDER

The Petitioner has challenged the impugned notice demanding a sum of Rs.1,05,870/- as under Urban Land Tax Act payable by the Petitioner under the Provisions of the Tamil Nadu Urban Land Tax Act, 1966 (in short the TNULT Act) for the fasli year 2014-2015 for the relevant financial year 2005. In the said demand notice, the Respondents have also demanded another sum of Rs.14,82,180/- for the period between for which the fasli year 1401 to 1414. It is noticed that under the provisions of the

TNULT Act, 1966 the urban land tax is to be levied and collected for every fasli year commencing from the date of commencement of the Act, which is a Tax on each urban land from the owner of the said urban land at the rate specified under the First Schedule of the Act.

2. In this case, the Petitioner has not filed returns as is contemplated under the provisions of the TNULT Act, 1966 and therefore not paid urban land tax under the provisions of the TNULT Act, 1966. Under these circumstances, the Act contemplates issue of notice under Section 11 for determination of the correct market value for the purchase demanding urban land tax under the provisions of the TNULT Act, 1966. The Sub-clause 2 of Section 11 also contemplates a notice of hearing before the determination of the market value of the property.

3. Where an assessee fails to attend or fails to produce evidence in pursuance of the notice issued under Section 11, the Assistant Commissioner may determine the market value of the property for the purpose of levying urban tax payable thereon. Thereafter the machinery under Section 14 and 16 can be invoked by the authorities under the provisions of the TNULT Act, 1966.

4. In this case, the Respondents are not in a position to substantiate as to whether when there was any previous assessment of the property and whether any demand was made on an earlier occasion.

5. On the other hand, the Petitioner has taken a categorical stand that they have never filed any returns nor paid any urban land tax for these fasli years. In these circumstances, the impugned demand notice demanding a sum of Rs.15,88,805/- towards arrears of urban land tax under the provisions of the Urban Land Tax Act, 1966 is quashed with liberty to the Respondents to properly determine the urban land tax in terms of Section 11 of the TNULT Act, 1966.

6. The impugned order which has been quashed by this order shall however be treated as a show cause notice for the aforesaid purpose. If necessary, Respondents may issue corrigendum to the Petitioner to include demand for urban land tax for the subsequent period as well if no show cause notice has been issued so far. This exercise may be carried by the Respondents within a period of thirty days from date of receipt of this order.

7. The Petitioner shall file a reply within a period of thirty days of receipt of such notice. The Respondents shall thereafter call upon the Petitioner for a personal hearing and pass appropriate order in accordance with law within a period of

thirty days thereafter. The entire exercise shall be carried out by the Respondents within a period of ninety days of date of receipt of this order.

8. This Writ Petition stands allowed with the above observations. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To

1. Special Tahsildar,
   Urban Land Tax,
   Egmore Nungambakkam Taluk,
   Mayor V.R. Ramanatha Salai,
   Chetpet, Chennai - 600 031.

2. The Assistant Commissioner,
   Urban Land Tax,
   Egmore, Chennai - 600 029.

+1cc to Government Pleader, SR.No.3179.

W.P. No. 34456 of 2005
and
W.M.P. No. 42126 of 2005

SJ(CO)
CSR: 26.02.2020