IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP.No.24965 of 2012
and
M.P.No.1 of 2012

M/s.Sambandam Spinning Mills Limited,
by Chief Financial Officer and
Company Secretary,
Kamaraj Nagar Colony,
Salem - 636014. ...Petitioner

Vs

1. Additional District Court,
   Fast Tract, Salem.

2. Tax Appellate Tribunal,
   Salem.

3. The Commissioner,
   Salem Municipal Corporation,
   Salem. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, call for the records of the 1st respondent in CMA.No.2 of 2008, culminating in Order dated 12.01.2020 and quash the same and direct the 3rd respondent to revise the property tax, payable for the property owned by the petitioner, under tax levy No.125861, by fixing the tax for the whole year at Rs.55,000/-, instead of Rs.55,000/- per half year.

For Petitioner : Mr.V.Kuberan
for M/s.Rank Associates
For Respondents: Mr.S.Sathish for R3

O R D E R

Today, the matter is called through video conferencing. By consent of both the parties, the Writ Petition is taken up for final disposal.

2. Pursuant to the upgradation of Salem Municipality to Salem Corporation, the Government in G.O.Ms.No.169, Municipal

Administration and Water Supply Department, dated 19.04.1999, issued guidelines for revision of property tax. As per the said Government Order, the House Tax was directed to be treated as Property Tax as on 01.10.1998 and the half yearly assessment of the tax was permitted to be enhanced to 100% per half year.

3. Prior to the Government Order, the petitioner's half yearly property tax was revised at Rs.55,000/- in the year 1991. Based on a Resolution dated 29.09.1999 of the Salem Corporation, the enhancement of property tax was proposed at 200% on commercial buildings. Accordingly, when the respondent had enhanced the half yearly property tax from Rs.55,000/- to Rs.1,65,000/-, which came to be challenged by the petitioner before the Taxation Appellate Tribunal, Salem, by an order dated 27.07.2007, the enhancement at 200% was set aside and by applying the Government Order in G.O.Ms.No.169, the half yearly enhancement was reduced to 100% from 200%, i.e., at Rs.1,10,000/-. The further challenge to the Tribunal's Order, before the District Court, Salem, was rejected and hence, the petitioner had preferred the present Writ Petition.

4. The learned counsel for the petitioner relied upon certain observations made in the Tribunal's Order and submitted that the "half yearly" enhancement from Rs.55,000/- to Rs.1,10,000/- should be treated as annual enhancement, in view of the observations made by the Tribunal.

5. The learned Standing Counsel appearing for the third respondent, however, opposed to such a submission and stated that the findings of the Tribunal, as well as the District Court, are in conformity with the Government Order and therefore, no interference is required.

6. The only contention of the learned counsel for the petitioner is that the half yearly enhancement should be treated as annual enhancement. Such a submission is contrary to the guidelines issued by the Government in G.O.Ms.No.169, dated 19.04.1999, which only stipulates that the house tax has to be treated as property tax with effect from 01.10.1998 and the then existing annual tax should be assessed on half yearly basis and can be further subjected to gradual enhancement over the subsequent years, in order to have an uniformity of tax with the other areas.

7. Though the discussion in the order of the Tribunal seems to indicate that the enhancement on annual basis is incorrect, the ultimate finding for enhancement of half yearly tax to yearly tax at 100%, is in conformity with the Government Order. Apparently, the discussion seems to be an error, possibly a typographical error also. However, the final findings does not

go against the guidelines of the Government Order. As such, the order of the learned District Judge in C.M.A.No.2 of 2008, rejecting the petitioner's appeal by applying the ratio laid down in the Government Order, cannot be found fault with.

8. Accordingly, the Writ Petition stands dismissed and the third respondent is at liberty to collect the arrears of taxes from the petitioner in a manner provided under law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1. Additional District Court,
Fast Tract, Salem.

2. Tax Appellate Tribunal,
Salem.

3. The Commissioner,
Salem Municipal Corporation,
Salem.

+1cc to M/s.Rank Associates, Advocate in Sr.29538

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spd(co)
rv(23/9/2020)