IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 28624 of 2015
and
M.P. No. 1 of 2015

Hindustan Bible Institute & College,
A Society registered under the Tamil Nadu Society's Registration Act,
Rep. by Secretary,
No. 86-89, Medavakkam Tank Road,
Kilpauk,
Chennai - 600 010. ... Petitioner

-vs-

1. The State of Tamil Nadu,
Rep. by the Under Secretary,
Revenue Department,
Fort St. George,
Chennai - 600 009.

2. The Assistant Commissioner of Urban Land Tax,
No. 846, E.V.R. Road,
Tondiarpet,
Chennai - 600 029.

3. The Special Tahsildar (Urban Land Tax),
Purasawalkam Taluk,
Chennai - 600 003. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the proceedings of the impugned notice of the Third Respondent in Form No. 6 under Rule 5 dated 07.07.2015 and quash the same.

For Petitioner : Mr. George Graham
for M/s. Devadason and Sagar

For Respondents: Mr. N.Inbanathan,
Additional Government Pleader

O R D E R
(through video conference)

Heard Mr. George Graham, Learned Counsel appearing for the Petitioner and Mr. N.Inbanathan, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the demand notice dated 07.07.2015 issued by the Third Respondent requiring the Petitioner to pay urban land tax for the period from fasali 1401 to 1425 under the provisions of the Tamil Nadu Urban Land Tax Act, 1966 (hereinafter referred to as the 'TNULT Act' for short).

3. The grievance sought to be ventilated by the Petitioner in this Writ Petition is that the property of the Petitioner for which urban land tax under the TNULT Act is claimed by the Third Respondent is used for educational purpose, which is exempted under Section 29(h) of the TNULT Act.

4. It is brought to notice by the Learned Counsel for the Petitioner that the Respondents had earlier made similar claims for urban land tax from the Petitioner, which had been challenged before this Court in the Writ Petitions in W.P. Nos. 3868 to 3871 of 1970, W.P. No. 1423 of 1982, W.P. No. 3512 of 1983 and W.P. No. 14252 of 1994 and this Court by orders dated 25.04.1973, 02.02.1990, 27.06.1991 and 10.08.2001 respectively had set aside those demands and had directed the objections of the Petitioner to the considered and pass orders. In furtherance thereto, the Second Respondent had fixed enquiry at 11.00 a.m. on 09.03.2015, which was served on the Petitioner at 4.00 p.m. on that day and the Petitioner sent letter dated 10.03.2015 explaining the inability to attend that enquiry for that reason. However, the Third Respondent by impugned demand notice has proceeded to levy urban land tax without reference to the nature of land and its use for educational purpose under the provisions of the TNULT Act.

5. Though the Third Respondent has filed Counter-Affidavit dated 11.11.2015, the explanation made by the Petitioner for the inability to attend the enquiry has not been traversed. That apart, there is nothing to show how the Third Respondent had arrived at the conclusion that property was not used for educational purpose as required by this Court in the earlier Writ Petitions before making the impugned demand for urban land tax from the Petitioner. Having regard to the fact that the Second Respondent issued notice for enquiry but it had not been served on the Petitioner in time, it must be held that the Petitioner has been deprived of opportunity of hearing to explain its position, which vitiates the decision-making

process. In such circumstances, the impugned demand notice dated 07.07.2015 issued by the Third Respondent, shall stand set aside and the matter remitted for fresh consideration.

6. In order to expedite the proceedings, this Court during the earlier hearing on 29.10.2020 had passed the following self-explanatory order:-

> " Having due regard to the claim of the Petitioner that the property of the Petitioner, which is an Educational Institution is exempted from levy of urban land tax under Section 29(h) of the Urban Land Tax Act, 1966, the Third Respondent shall conduct inspection of that property, take measurements and identify the portions which are being used for educational purpose, the portions which are lying vacant, and the portions which are constructed and not being used for any educational purpose, and file a report before this Court, by 27.11.2020.
>
> Post the matter under the caption 'Urban Land Tax cases' after four weeks."

Learned Additional Government Pleader appearing for the Respondents has produced the field inspection report dated 10.11.2020 from the Second Respondent, which reads as follows:-

> " Rc.No. A2/2310/1995
>
> Field Inspection Report
>
> Tvl. Hindustan Bible Institute & College owns 102 Grounds 2100 Sq.ft., of land in Block 54 of Purasaiwakkam Village, Chennai District. The lands were assessed under Tamilnadu Urban Land Tax Act, 1966 Amendment Act, 1991 with effect from F1401. The assessment details are mentioned below:-
>
> Assessment details:-
>
> Village : Purasaiwakkam Block:- 54

Sl. No.	T.S.No.	Total Extent G-Sqft.	Assessed Extent G-Sqft	Tax Amt. Rs.	Case No.	Name of the Assessee
1	3166/1	9-2242	7-2242	3174	5	Hindustan Bible Society Educational Institute
2	3166/3	2-1232	0-1232	144	6	Hindustan Bible Society Educational Institute
3	3166/4	1-0606	NIL	-	-	Below 2 grounds not assessed
4	3166/5	1-0388	NIL	-	-	Below 2 grounds not assessed

Sl. No.	T.S.No.	Total Extent G-Sqft.	Assessed Extent G-Sqft	Tax Amt. Rs.	Case No.	Name of the Assessee
5	3166/6	5-0187	3-0187	1231	7	Hindustan Bible Society Educational Institute
6	3166/7	5-1174	3-1174	1396	8	Hindustan Bible Society Educational Institute
7	3166/8	2-1301	0-1301	152	9	Hindustan Bible Society Educational Institute
8	3166/9	3-2320	1-2323	551	10	Hindustan Bible Society Educational Institute
9	3166/10	5-0749	3-0749	1325	11	Hindustan Bible Society Educational Institute
10	3166/11	4-0343	2-0343	600	12	Hindustan Bible Society Educational Institute
11	3166/12	4-0035	2-0035	564	13	Hindustan Bible Society Educational Institute
12	3166/13	4-1951	2-1951	788	14	Hindustan Bible Society Educational Institute
13	3166/14	5-0925	3-0925	1354	15	Hindustan Bible Society Educational Institute
14	3166/15	4-2198	2-2198	816	16	Hindustan Bible Society Educational Institute
15	3167/2	42-0849	40-0849	32283	17	Hindustan Bible Society Educational Institute
Total		102-2100		44378		

The land was jointly inspected by the Assistant Commissioner (ULT), Tondiarpet & Deputy Tahsildar, Purasaiwakkam Taluk along with field staffs on 05.11.2020. The status report are as follows:-

Sl. No.	T.S.No.	Total Extent G-Sq.ft.	Building No. in Sketch	Present Status of land	Extent of Building G-Sq.ft.	Extent of vacant land and Road G-Sq.ft.

1	3166/1	9-2242	14	Major portion of lands in three survey numbers are covered by office admin building and reception hall (Ground+one floor). A small portion of land is utilized as a vegetable garden. In this field there are 3 Coconut trees, 2 small teak trees & 2 rain trees available. Remaining portion of the land is vacant.	3-1436	12-2027
	3166/8	2-1301				
	3166/9	3-2320				
	Sub Total	16-1063				
2	3166/3	2-1232	11 & 12	There are two buildings (Ground + 2 floor) in which Dining hall & Faculty Quarters are located.	3-1712	1-0514
	3166/4	1-0606				
	3166-5	1-0388				
	Sub Total	4-2226				
3	3166/6	5-0187	-	Vacant. Part of the portion of land was utilized as car parking.	0-0187	5-0000
4	3166/7	5-1174	-	Vacant. Entire portion of land was utilized as volleyball & Badminton Court	-	5-1174
6	3166/10	5-0749	-	Vacant. There are 5 coconut trees in this field.	-	5-0749

7	3166/11	4-0343	13	In both survey numbers there is one Building (Ground + 3 floor). This building is used as men hostel & training centre, water sump. There are few coconut trees also in this field.	3-0490	4-2288
	3166/12	4-0035				
	Sub Total	8-0378				
8	3166/13	4-1951	15	In both survey numbers there is one Building (Ground + 2 floor). It is utilized as Principal room, Class room & Library. There are few coconut trees also in this field.	4-1394	5-1482
	3166/14	5-0925				
	Sub Total	10-0476				
9	3166/15	4-2198	16 & 17	In this field there is Generator Room in 600 sqft, unused toilets in 160 sqft. and part is used as two wheeler parking. Remaining portion of lands are kept as vacant.	0-1288	4-0910
10	3167/2	42-0849	18	In the entrance of the Institute, watchmen room is located. In the northern side, there are two buildings namely,	11-0000	31-0849

				1 2 3 4 5 6 7 8 9 10	1. Dr.Gupta Primary School (Private School) (Ground + 3 floor) and 2. Murchison Block (Ground + one floor) is utilized as Labour Quarters. In the western side of this field there are few building namely, 1. Women's Hostel (ground + 2 floor). 2. Kinder Care Building 3. Labour Quarters (Ground + one floor) 4. Unused Building (Ground + 2 floor) 5. Kinder's Chapel 6. Building (Rest Room) 7. Staff Quarters (Ground + 1 floor) 8. Faculty Quarters (Ground + 2 floor) One bore well is available in this field. Remaining portion of lands is kept as vacant. Also there are few coconut trees, few Ashoka trees, few Mango trees, few rain trees in this field.		
Total Extent		102-2100				26-1706	76-0394

ABSTRACT

Sl.No.	Details	Gr-Sq.ft.
1.	Buildings Constructed Area	26-1706
2.	Volleyball & Badminton Court	05-1174
3.	Vacant Area	46-1020
4.	Extent used as road by the Hindustan Bible Society for their own purpose	24-2100
	Total	102-2100

At this juncture, Section 29(h) of the TNULT Act in terms of which the Petitioner claims exemption from urban land tax, is extracted below:-

> "29. Exemptions:- Nothing in this Act shall apply to-
> ....
> (h) any urban land used by schools, colleges or universities for purposes directly connected with education, but no including any urban land owned by such educational institutions and -
> (i) which is vacant, or
> (ii) in which buildings from which income is derived have been constructed.
> Explanation I:- For the purposes of this clause, schools or colleges shall mean only such schools or colleges which are educational institutions recognised either by the Government or by any University, as the case may be.
> Explanation II:- For the removal of doubts, it is hereby declared that the urban land on which schools, colleges or universities or staff quarters or hostels or other buildings used for the welfare of the students, have been constructed, or used as playgrounds attached to such schools, colleges or universities, shall be deemed to be urban land used for the purposes directly connected with education."

On a conspectus of the said statutory provisions, it could be inferred that in order to have the benefit of exemption for urban land tax, the Petitioner would have to satisfy the following conditions:-

(i) The schools or colleges should have been recognized either by the Government or by any University;

(ii) The portions of land in which the schools, colleges or universities or staff quarters or other buildings used for the welfare of the students, which have been constructed or used as playgrounds attached to such schools, colleges or universities, shall be deemed to be urban land used for the purpose directly connected to education;

(iii) The portions of land owned by the educational institution, which are vacant and is used for any educational purpose shall be deemed to be urban land used for the purpose directly connected to education; and

(iv) The portions of land owned by the educational institution in which buildings are constructed should not be used for the purpose of deriving income.

It is only when the aforesaid conditions are satisfied that the Petitioner would be eligible for exemption of urban land tax for its prperty under the TNULT Act to that extent and in respect of portions which does not satisfy the said conditions, there has to be levy of urban land tax under the TNULT Act.

7. As already stated, the Second Respondent has now conducted an inspection of the entire property and has filed a report on spot inspection of the nature of use of the various portions of land for which urban land tax is sought to be levied. Learned Counsel for the Petitioner has also acknowledged the receipt of the copy of that report today. It is incumbent upon the Petitioner to state the correctness of the facts as recorded therein and place his objections, if any, in that regard before the Second Respondent by 21.01.2021. The Second Respondent shall thereafter conduct enquiry at 11.30 a.m. on 28.01.2021 on which date the authorized representatives of the Petitioner shall appear in person to substantiate their contentions for the claim for exemption of urban land tax with supporting materials. If the Second Respondent is not in a position to take up the matter for hearing on that date, he shall inform to all parties concerned of the adjourned date of hearing in the prescribed manner. The Second Respondent, after affording full opportunity of personal hearing to the Petitioner following the prescribed procedure in consonance with the principles of natural justice, shall deal with each of the contentions raised and pass reasoned orders on merits and in accordance with law and communicate the decision taken to the Petitioner under written acknowledgment and report of such compliance shall be filed by 31.03.2021 before the Registrar (Judicial) of this Court.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vjt

To

1. The State of Tamil Nadu,
   Rep. by the Under Secretary,
   Revenue Department,
   Fort St. George,
   Chennai - 600 009.

2. The Assistant Commissioner of Urban Land Tax,
   No. 846, E.V.R. Road,
   Tondiarpet,
   Chennai - 600 029.

3. The Special Tahsildar (Urban Land Tax),
   Purasawalkam Taluk,
   Chennai - 600 003.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+1cc to Mr.Devadason & Sagar, Advocate, S.R.No. 40560
+1cc to the Government Pleader, S.R.No. 40710

W.P. No. 28624 of 2015

SR II(CO)
GN(07/01/2021)