IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.11.2020
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 9556 of 2015
and
M.P. No. 1 of 2015

S.C.Mangalam
W/o. Chengalappa
... Petitioner

-vs-

1. The Government of Tamil Nadu
Rep. by its Secretary to Government
Municipal Administration & Water Supply Dept.
Fort St. George
Chennai - 600 009.

2. The Commissioner
Gudiyatham Municipality
Gudiyatham, Vellore District.
... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order made in Na.Ka. No. 1515/2015/A1 dated 09.03.2015 on the file of the Second Respondent herein and quash the same.

For Petitioner : Mr. R.Arun Dattan

For Respondents : Mrs. A.B.Reehana Begam (For R1)
Government Advocate

No appearance (For R2)

ORDER
(through video conference)

The Writ Petition challenges the demand notice in Na. Ka. No. 1515/ 2015/A1 dated 09.03.2015 issued by the Second Respondent calling upon the Petitioner to pay the arrears of property tax for the period from II/1993-1994 to II/2014-2015 in respect of the property of the Petitioner at Nos. 15, 15a, 15b, 15c, 16, 16a, 16b and 16c, Pasweswara Road, Bhuvaneswaripet, Gudiyatham, Vellore District.

2. The grievances sought to be ventilated by the Petitioner is that despite having already paid the property tax, the impugned demand notice has been issued. However, on a perusal

of the documents filed by the Petitioner in the Writ Petition, it is seen that the property tax receipts have been produced only up to the year I/1993-1994, whereas the impugned demand notice pertains from the year II/1993-1994 to II/2014-2015 and there is no evidence produced for having paid the property tax for that period. That apart, if the Petitioner disputes the amount of property tax, there are adequate provisions in the statute enabling the Petitioner to raise objections before the concerned authority and also file appeal against that decision. Having regard to the aforesaid statutory scheme for levy and collection of property tax, there does not appear to be any justification for the Petitioner to invoke the discretionary jurisdiction of this Court under Article 226 of the Constitution to evade payment of the property tax that has fallen due for more than two decades.

3. In this context, it must be recapitulated here that the Hon'ble Supreme Court of India in Assistant Collector of Central Excise -vs- Dunlop India Limited [(1985) 1 SCC 260] has succinctly explained the legal position relating to the exercise of discretionary powers under writ jurisdiction as follows:-

> "3. Article 226 is not meant to short-circuit or circumvent statutory procedures. It is only where statutory remedies are entirely ill-suited to meet the demands of extraordinary situations as for instance where the very vires of the statute is in question or where private or public wrongs are so inextricably mixed up and the prevention of public injury and the vindication of public justice require it that recourse may be had to Article226 of the Constitution. But then the Court must have good and sufficient reason to bypass the alternative remedy provided by statute. Surely matters involving the revenue where statutory remedies are available are not such matters. We can also take judicial notice of the fact that the vast majority of the petitions under Article 226 of the Constitution are filed solely for the purpose of obtaining interim orders and thereafter prolong the proceedings by one device or the other. The practice certainly needs to be strongly discouraged."

4. If the Petitioner has paid any property tax under the impugned notices after filing of the Writ Petition, the same shall be taken into account by the Respondent, who is not precluded to issue revised demand notice for the arrears and recover the same in the manner recognized by law.

5. Accordingly, the Writ Petition is dismissed with the aforesaid clarifications. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Maya/vjt
To

1. The Secretary to Government
   Municipal Administration & Water Supply Dept.
   Fort St. George
   Chennai - 600 009.

2. The Commissioner
   Gudiyatham Municipality
   Gudiyatham, Vellore District.

W.P. No. 9556 of 2015

SS(CO)
GSP(15/12/2020)

P.D. AUDIKESAVALU, J.

Maya

Dated : 18.11.2020