

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No. 2710 of 2018
and
WMP. No.3353 of 2018

Lincoln Electric Company(India) Pvt Ltd,
P-40 Central Avenue DTA,
Mahindra World City Post Office, Chengalpattu,
Kancheepuram Dt rep by its
Company Secy. Authorised Signatory ...Petitioner

vs

1.Government of Tamil Nadu,
rep by Secretary, Department of Revenue,
Fort St. George, Chennai-09.

2.Anjur Panchayat Union rep by
Special Officer, Chengalpattu,
Kancheepuram District- 603 204. ...Respondents

Prayer:PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the Second Respondent with regard to the demand notice dated 07.12.2017 in proceedings No.1 quash the same and direct the Second Respondent to collect the property tax library cess and surcharge strictly in terms of the provisions of the Tamil Nadu Panchayat Act 1994.

For Petitioner : Mr. Anand Gopalan

For Respondents : Mr.R.P.Prathap Singh,
Government Advocate for R1
D.Suryanarayanan for R2

O R D E R

Heard Mr.Anand Gopalan, learned counsel for the petitioner and Mr.Pratap Singh, learned Government Advocate for the first respondent and Mr.D.Suryanarayanan, learned counsel for the second respondent.

2. The petitioner challenges a demand notice dated 07.12.2017 passed under the Tamil Nadu Panchayat Act, 1994 in respect of the property at Anjur Panchayat, Kattankulam Union for the periods 2017-18. According to the petitioner, an assessment has been made for the very same property the previous year adopting an all inclusive interest rate of tax at Rs.5/- per sq.ft. This assessment, according to the petitioner, has attained finality. While this is so, the petitioner is in receipt of the present impugned demand notice calling upon the petitioner to remit a sum of Rs.15,48,887/-. The breakup of the demand is a sum of Rs.5/- per sq.ft. and in addition, library cess of 10% and surcharge of 60%. This, according to the petitioner, constitutes a variation/deviation from the earlier assessment that has attained finality, adopting a comprehensive rate inclusive of tax, library cess and surcharge.

3. A counter has been filed by the second respondent justifying the impugned demand notice. However, there is no specific defence to the arguments raised in regard to the variation in the methodology of computation adopted between the earlier assessment and present demand notice. Notably, the impugned notice has also not been supported by an order of assessment, which is a sine qua non for raising of a demand.

4. For the aforesaid reasons, I am of the view that the present impugned notice has no legs to stand and proceed to quash the same, remanding the proceedings for assessment to the file of the officer to be re-done de-novo.

5. The second respondent is specifically directed to complete the assessment afresh after hearing the petitioner, considering all/any materials that may be produced by the petitioner in support of its stand and in line with the provisions of the Tamil Nadu Panchayats Act, 1944 including the Schedules thereto and pass a speaking order within a period of six (6) weeks from date of receipt of a copy of this order after hearing the petitioner either physically or through video conferencing as may be appropriate/convenient to the parties. In completing the assessment the Assessing Officer shall specifically record his reasons for deviating from the basis of the earlier assessment.

6. It is made clear that in the meantime, the petitioner shall continue to pay the admitted tax on the basis of the earlier assessments including the arrears, which the second respondent shall receive to the credit of the petitioner.

7. The Writ Petition is disposed of. No costs. Connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

S1

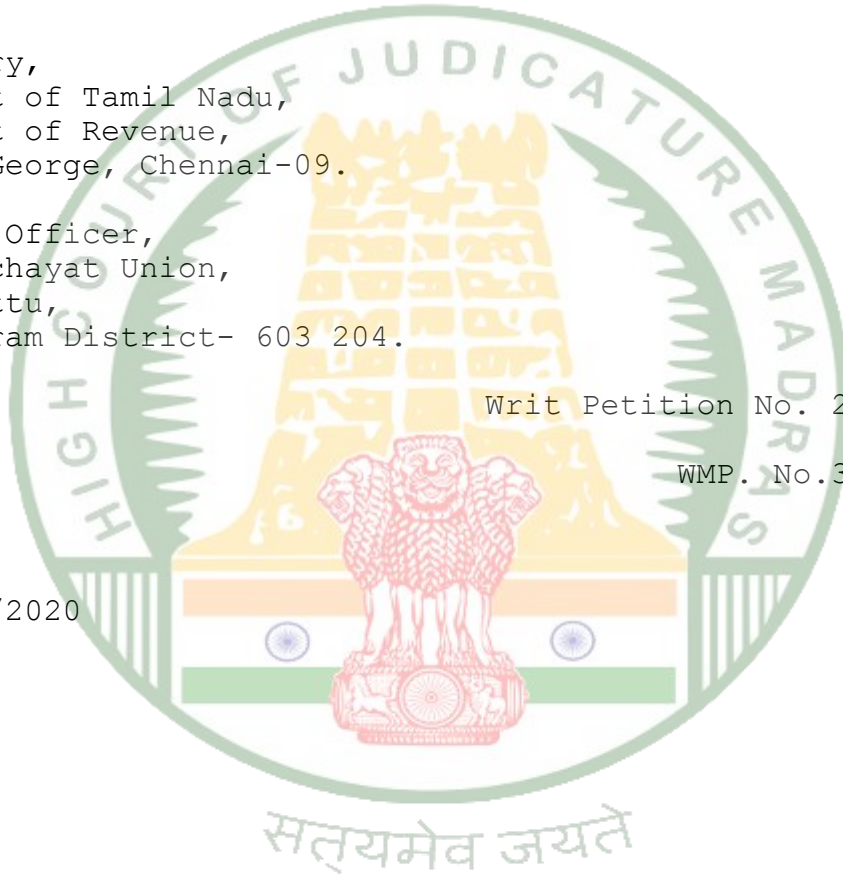
To

1.Secretary,
Government of Tamil Nadu,
Department of Revenue,
Fort St. George, Chennai-09.

2.Special Officer,
Anjur Panchayat Union,
Chengalpattu,
Kancheepuram District- 603 204.

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AD(CO)
KKV/12/08/2020



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