BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.09.2020
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.12746 of 2010
and
M.P(MD)No.1 of 2010

M/s.P.R.P.Exports,
Represented by its Partner P.Palanichamy,
S/o.Pinnathevar,
Therku Theru Village,
Madurai Main Road, Melur Taluk,
Madurai District. ... Petitioner

Vs.

The Corporation of Madurai,
Represented by Assistant Commissioner,
East Division,
Madurai - 2. ... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to demand notice and special notice No.52354 issued by the respondent in Ref. No.Ki.Ma.Va.6/15293/2008, dated 30.08.2010 and quash the same.

For Petitioner : Mr.Veerakathiravan,
Senior Counsel
for Mr.V.Sri Balaji

For Respondent : Mr.R.Murali
Standing Counsel

O R D E R

Heard the learned Senior Counsel appearing for the writ petitioner and the learned Standing counsel appearing for the respondent Corporation.

2.The case of the petitioner is that they purchased 21 acres and 30 cents of land together with building and trees, vide registered sale deed (Document No.7582 of 2006) dated 17.11.2006. The petitioner herein submitted an application, dated 24.11.2008, requesting the respondent Corporation to levy property tax on the building and vacant land tax on the appurtenant lands. The petitioner's request was accepted and the order dated 30.11.2009 was passed. The vacant land tax was fixed at Rs.38,82,876/-. The petitioner thereupon brought to the notice of the respondent that the tax will have to be levied on square foot basis. The statutory provision namely, Section 120 (4) (a) of the Madurai City Municipal Corporation Act, 1971 had undergone an amendment.

Earlier, the vacant land tax was levied on the capital value of the land. Following the amendment, tax was to be levied on square feet basis. In view of the amendment, the vacant land tax on the property was reduced to Rs.5,55,110/-. In fact, the petitioner remitted the tax dues on that basis and the respondent also issued "No Due Certificate" on 19.03.2010. The grievance of the petitioner is that without taking note of the payment by the petitioner and also the issuance of no due certificate, the impugned communication, dated 30.08.2010 came to be issued. In the impugned communication, the respondent proposed to levy tax as originally proposed. This is under challenge in this writ petition.

3.Before making his submissions, the learned Senior counsel fairly conceded that the petitioner is in arrears from the year 2017 onwards and that the arrears may come approximately to Rs.50,00,000/- (Rupees Fifty Lakhs). He states that the entire arrears would be cleared within a period of six months. He further states that he would clear the same in three instalments. This undertaking given by the petitioner through the learned Senior counsel is placed on record.

4.It is not in dispute that Section 120 (4) (a) of the Act was amended. The basis of taxation was no longer based on the capital value of the land. The tax was to be levied only on square feet basis.

5.The learned Senior counsel appearing for the petitioner pointed out that the property of the petitioner was levied for the first time only after the aforesaid statutory provision was amended. If the said property had earlier been assessed on capital value basis, then the petitioner would of-course, be liable to pay the tax at the previous rate. But the assessment itself was made for the first time only on 30.11.2009. The amendment came into force on 01.09.2009.

6. I find considerable force in the stand of the petitioner's Senior Counsel that a beneficial amendment will have to be given its fullest effect. In-fact, the Commissioner of Administration had been issued a clarification, in this regard, vide circular bearing Na.Ka. No.57811/09/R-1, dated 30.11.2009. Of-course, the learned Standing Counsel would draw my attention to another circular, dated 19.03.2010. The question that arises for my consideration is whether the petitioner's case will have to come under the amended provision or un-amended provision. I have no doubt that whatsoever in my mind that the amended provision will have to be applied to the case on hand. The subsequent circular issued by the Director of Municipal Administration, deals with the lands that have already been assessed under the un-

amended provision. The case on hand is therefore, covered by the first circular and not the subsequent one.

7.Accordingly, the impugned communication stands quashed and this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

The Assistant Commissioner,
Corporation of Madurai,
East Division,
Madurai – 2.

+1 CC to Mr.R. MURALI, Advocate (SR-17364[F] dated 18/09/2020)

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16.09.2020

SS(CO)
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