IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.02.2021
PRONOUNCED ON : 08.03.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25586 of 2007
and M.P.No.1 of 2007

M/s.Kothari Sugars and Chemicals Ltd.,
Kothari Buildings,
No.115, Mahatma Gandhi Salai,
Chennai 600 034,
represented by its Company Secretary. .. Petitioner

vs

1. The Urban Land Tax Tribunal,
   Office of the District Revenue Officer,
   Thiruvallur District.

2. The Assitant Commissioner,
   Urban Land Tax,
   Madhavaram, Kolathur,
   Chennai 600 099.

3. The Tahsildar,
   Ambattur Taluk,
   Ambattur, Thiruvallur District.

4. The Principal Commissioner and
   Commissioner of Land Reforms
   Chepauk, Chennai 600 005. .. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, to call for the records pertaining to the impugned order No.RC 7104/04, C3 dated 11.05.2007 of the 4th respondent which confirmed by the order dated 07.01.2004 of the 1st respondent as the levy, imposition, demand or collection of Urban Land Tax by the respondents .

For Petitioner : Mr.Krishna Srinivasan for
Mr.S.Ramasubramaniam and Associates

For Respondents : Mr.N.Inbanathan

Addl.Govt.Pleader

O R D E R

In this writ petition, the petitioner has challenged the impugned order of the 4th respondent dated 11.05.2007, which confirms the order dated 07.01.2004 of the 1st respondent thereby seeking to levy of Urban Land Tax for the fasli year 1401ie, from July 2000-June 2001. The expression Fasli year means a period of 12 months from July to June. By adding 590 to Fasli year comes to Gregorian calendar, corresponding Gregorian year for Fasli year is July 2000-June 2001.

2. The case of the petitioner is that the petitioner was assigned about 304 grounds 901sq.ft and 22 grounds 779 sq.ft vide G.O.Ms.No.2296/Revenue Department, dated 14.11.1990. G.O.Ms.No.2296/Revenue Department, dated 14.11.1990 based on which the petitioner was assigned the land, reads as under:-

> ORDER :
>
> In Govt. letter first read above, a total area of 18 acres of poramboke land in S.No.1/2B and 35/5 in Sathangadu village, Saidapet taluk, Chengai Anna District was allotted to M/s.Kothari Sugars and Chemical Limited, Madras for establishing their project. The land would be on lease basis for a period of 15 years in the first instance, on a lease rent of 7% of the market value of the land on the date of entering upon the land or at the rates to be fixed by the Government on the basis of final orders. Out of this 18 acres of land, an extent of 15.76 acres was handed over to M/s.Kothari Sugars and Chemical Limited on 25.5.88. The remaining portion of the land has also been entered upon by the company on 23.12.88.
>
> 2. The collector, Chengai-Anna District has submitted proposals for allotment of the above lands on assignment basis, on collection of market value at the rate of Rs.450/- per cent, on the basis of sales statistics relating to a land at a distance of 3 kilometres in the adjacent village. The Special Commissioner and Commissioner of Land Administration considered conditional alienation basis, on collection of double the market value as it is required for industrial purpose and fixed the

land value at Rs.450/- per cent. With escalation for one year the value comes to Rs.405/- per cent or Rs.40,500 per acre. The Government accept this.

3. In this connection Government have decided to impose an infrastructure surcharge on all land transfers in such area in view of the heavy outlays already incurred and to be incurred by the Government for infrastructural development. Accordingly, they have decided that the infrastructure surcharge in this case should be 5 times the land value.

4. After careful examination of the proposals of the Collector of Chengai – Anna District and the recommendation of the Special Commissioner and Commissioner of Land Administration thereto and in the light of the decision in para 3 above the Government direct that 18 (Eighteen) acres of poramboke land in S.No.1/2 B and 33/5 in Sathangadu village, Saidapet taluk, Chennai – Anna District referred to in para 1 above, be valued and transferred to M/s.Kothari Sugars and Chemicals Ltd. on the following terms:

(a)	Basic land cost	Rs.49,500 per acre	(Rupees Forty nine thousand and five hundred only per acre)
(b)	Towards infrastructure surcharge	Rs.2,47,500 per acre	(Rupees Two lakhs forty seven thousand and five hundred only per acre)
		Rs.2,97,000 per acre	(Rupees Two lakhs ninety seven thousand only per acre

5. The Collector of Chengai – Anna District, is requested to take necessary follow up actions, to collect the amount due from the company and effect the land transfer to M/s.Kothari Sugars and Chemicals Limited.

3. Though the market value of Rs.450/- per cent was assigned based on the sale value of a land in the adjacent

village at Sathangadu 3 kms away from the land assigned to the petitioner and further infrastructural cost was added, the respondents initiated proceedings to demand Urban Land Tax from the petitioner under the provisions of the Urban Land Tax Act, 1966.

4. An Assessment Order dated 02.02.2001 came to be passed against the petitioner by the 2nd respondent by fixing the marked value of the land at Rs.90,000/- per ground. Aggrieved by the aforesaid Assessment Order dated 02.02.2001 passed by the 2nd respondent, the petitioner preferred an appeal before the Urban Land Tax Tribunal, Tiruvallur, (hereinafter referred to as the Appellate Tribunal).

5. The Appellate Tribunal in U.L.T.Appeal.No.35674/2001/B3 vide its order dated 06.01.2002 set aside the Assessment Order dated 02.02.2001 remanded the case back to the 2nd respondent and directed the 2nd respondent to pass a fresh order with the following observations:-

> "While computing the market value for assessing the Urban Land Tax, the Assistant Commissioner of Urban Land Tax has adopted Rs.90,000/- per ground, basing on the sale of 1202 square feet of land in Survey No.206/2 of Sathangadu Village vide Doc.No.2500/dated:26/12/1980. For the lands assigned the Government and entered upon by the company on 23/11/1988, the land value (market value) has been fixed at Rs.450/- per cent. As such, the value per ground comes to Rs.2,750/- only. The same Government cannot have two standards, one for the assignment and another for the assessment. In the circumstances, I am remanding the case back to the Assistant Commissioner of Urban Land Tax for fresh disposal, taking into consideration the points put forth, document produced, given opportunities etc."

6. Pursuant to the aforesaid order, a fresh order came to be passed by the 2nd respondent on 30.05.2003. The 2nd respondent while passing the aforesaid order, considered the value of a land measuring to an extent of 1080 sq.ft in S.No.202/1 and re-determined the market value of the land as Rs.32,000/- per ground.

7. Aggrieved by the aforesaid order, the petitioner therefore preferred an appeal before the Appellate Tribunal in

U.L.T.A.No.31294/2003. The Appellate Tribunal affirmed the order of the aforesaid order of the 2^{nd} respondent by its order dated 7.01.2004.

8. Aggrieved by the same, the petitioner preferred a revision petition before the authorities namely, the 1^{st} respondent. The 1^{st} respondent has passed the impugned order dated 11.5.2007. The operative portion of the impugned reads as under:-

> " …….The market value was fixed as on 1.7.81. The basis of the fixation by the Assistant Commissioner was examined. There were 184 sales during the crucial period (i.e. 1.7.1980 to 30.06.1981). The sales statistics reveal that the value per ground ranged from Rs.4,305/- to Rs.1,76,039/-. The Valuation Officer is expected to compare the sales that took place during the crucial period to the land to be assessed and select a suitable sale which is comparable to the land to be assessed in location and other comparable aspects. The petitioner has now produced a document where the value fixed is Rs.9,500/- per ground. As mentioned there are sales ranging from Rs.4,305/- to Rs.1,76,039/- in the locality during the crucial period. Hence quoting one sale and asking to fix the market value based on that document is not feasible. The Assistant Commissioner has followed the prescribed procedure in fixing the market value and after considering all the sales in the locality, has arrived at a conclusion that a value of Rs.32,000/- per ground will reveal the true market value for the land to be assessed. Hence the fixation of the market value by the Assistant Commissioner is as per the prescribed procedure and hence there is no need for interference in this case. Hence the Market Value fixed by the Assistant Commissioner in cas No.360 & 361/1401, Sathangadu, dated 30.5.2003 is confirmed and the Revision Petition filed by M/s.Kothari Sugars and Chemicals Ltd., is hereby dismissed as devoid of merits."

9. The learned counsel for the petitioner submits that the marked value fixed by the appropriate authority consisting of experts cannot be countermanded on a skewed comparison of the value of smaller extent of the lands sold for housing purpose. It is submitted that there cannot be any comparison between the value as determined at the time assignment to the Petitioner of

the large extent of undeveloped land with the market value of smaller extent of land from nearby village which were sold under a private negation for housing purpose.

10. The learned counsel for the petitioner submits that he relies on the following cases:-

i. Land Acquisition Officer and Sub Collector, Gardwal Vs. Sreelatha Bhoopal (Smt) and Another, (1997) 9 SCC 628.

ii. Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Another, (1988) 3 SCC 751.

iii. Special Tahsildar, Land Acquisition Officer, Tirupattur Vs. Govindan and Ors., MANU/TN/5884/2020.

iv. The District Collector cum Land Acquisition officer, Southern Sector of Inner Road Scheme Phase – II and OrsVs. NarayaniNarasa, MANU/TN/5528/2020.

v. Atma Singh (Died) through Lrs. and Ors. Vs. State of Haryana and Ors., MANU/SC/8181/2007.

vi. Power Grid Corporation of India Ltd. and Ors. Vs. Jagpal Singh and Ors., MANU/UP/5116/2018.

11. He submits that in the context of fixing the value, the Hon'ble Supreme Court in Lal Chand Vs. Union of India, (2009) 15 SCC 769 has considered the two cases of the Hon'ble Supreme Court in Ramesh Chand Bansal Vs. District Magistrate / Collector, (1999) 5 SCC 62 and R Sai Ram Bharathi Vs. J.Jayalalitha and others, (2004) 2 SCC 9 and has laid down the law in paragraph 44 which reads as under:-

> " 44. One of the recognised methods for determination of market value is with reference to the opinion of experts. The estimation of market value by such statutorily constituted Expert Committees, as expert evidence can therefore form the basis for determining the market value in land acquisition cases, as a relevant piece of evidence. It will be however open to either party to place evidence to dislodge the presumption that may flow from such guideline market value. We, however, hasten to add that the guideline market value can be a relevant piece of evidence only if they are assessed by statutorily appointed Expert Committees, in accordance with the prescribed

> assessment procedure (either streetwise, or roadwise, or areawise, or villagewise) and finalised after inviting objections and published in the gazette. Be that as it may."

12. The learned counsel for the respondents submits that in The Assistant Commissioner of Urban Land Tax and Ors., vs The Buckingham and Carnatic Co. Ltd., etc., AIR 1970 SC 169, the Court held as follows:-

> "9…Having regard to the language and context of Section 6 of the new Act we consider that the opinion which the Assistant Commissioner, has to form under that section is not subjective but should be reached objectively upon the relevant evidence after following the requisite formalities laid down in Sections 7 to 11 of the new Act…
> …Thus, the Act envisages a detailed procedure regarding submission of returns, the making of an assessment after hearing objections and a right to appeal to higher authorities."

13. He further submits that if proper weightage is not given to data of sales and value fixed by other Government functionaries, the order is vitiated by Arbitrariness. In this connection, a reliance was placed on the decision of the Court in B.M. Narayanaswamy vs Urban Land Tax Officer, Madras vide dated 28th March 1977 in W.P Nos.209 and 210 of 1975.

14. It is submitted that the 2nd respondent Assistant Commissioner ought to have stated why the documents produced by the petitioner did not represent the correct value, and why it should be rejected. It is submitted that the rejection of the evidence produced by the petitioner without any basis was liable to be set aside.

15. It is submitted that the petitioner has also produced documentary evidence revealing adoption of lesser market value of the land in the same village in contrast to a single document relied on by the 2nd respondent.

16. He submits that latter document relates to a land of 1202 sq.ft sold for Rs.45,000/-. The 2nd respondent has used this as a basis for calculating the valuation of the land to an extend of about 324 grounds to the petitioner. He further submits that the law on assessing the market value is clear that two disproportionately unequal plots of land cannot be used to

calculate each other's market valuation. Reliance is also placed on the decision of the Court in M.S Ganesh vs. Asst. Commissioner of Urban Land Tax Tribunal,W.P 2121 of 1975 judgement dated 10.10.1977 &M.A Ramasamy vs Urban Land Tax Tribunal, W.P 943 of 1975 judgement, dated 11th March 1977.

17. It is further submitted that the 1st respondent has failed to consider the fact that the petitioner's land which runs to an extent of about 324 grounds (18 acres) cannot be subject to comparisons as the land was allotted to the petitioner was for industrial purposes and cannot be sold without the permission of the Government.

18. It is further submitted that the land that was assigned and allotted to the petitioner was as a poromboke land which was later developed by the petitioner for industrial purpose.

19. The learned counsel for the respondents submits that two parcels of land measuring an extent of 304 grounds, 901 sq.ft in S.No.1/2B and S.No.33/5 measuring 22 grounds 779 sq.ft were assigned to the petitioner vide G.O.Ms.No.2296/Revenue Department dated 14.11.1990 and since the petitioner did not file the returns under Section 7(D) of the Tamil Nadu Urban Land Tax Act, 1966 as amended in 1991,a notice in Form 4-C was issued to the petitioner and directing him to appear on 19.01.2001 and was served on the petitioner on 03.01.2001.

20. The learned counsel for the respondents further submitted that the 2nd respondent Assistant Commissioner of Urban Land Tax by an order dated 30.05.2003 has already given a proper reason in paragraph Nos.3 & 6.

21. He further submitted that since there was incorrect value adopted earlier and therefore the respondents were justified in demanding the differential urban land tax from the petitioner on the correct market value of the property. He further submitted that as per the order of the Urban Land Tax Tribunal, the petitioner was given an opportunity to file its objections and records. After considering the records submitted by the petitioner, the revised rate of the market value was fixed at Rs.32,000/- per Ground as on 01.07.1981.

22. It is therefore submitted that the assessment orders were passed on 02.02.2001 thereby levying tax of Rs.5,77,260/- per fasli year from fasli 1401 onwards. It is submitted that after considering the records filed by the petitioner, the revised market value fixed at Rs.32,000/- per ground the sale registered on 01.07.1981.

23. It is further submitted that in the instant case, the market value was arrived by gathering sales statistics for the period from 01.07.1980 to 30.06.1981 from the Sub-Registrar Office and the sale deed No.1022/1981, dated 07.05.1981 in S.No.202/1 for land measuring an extent of 1080 Sq.ft was sold at Rs.18,100/-.

24. The value of one ground worked out to Rs.40,222/-. The other sales which took place during the period from 01.07.1980 to 30.06.1981 was registered along with buildings and also falls below 1000 sq.ft. No sale transactions took place in lands lying near by the land assigned to the petitioner company.

25. Hence it was decided to consider the sale deed registered for Rs.18,100/- in S.No.202/1 measuring an extent of 1080 sq.ft arriving the market value. The petitioner company holds lands in S.No.1/2B measuring 304 grounds 901 sq.ft and in S.No.33/5 measuring 22 grounds 779 sq.ft and these lands was classified as lake poramboke and assigned to the company by the Government of Tamil Nadu.

26. The learned counsel for the respondents further submits that the value was correctly determined in terms of Section 5-C(2) of the Tamil Nadu Urban Land Tax Act, 1966. As per the said proviso to sub-section (1), the market value as on 01.07.1981 is to be reckoned for levying urban land tax on the petitioner.

27. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents. Urban land tax is payable under Section 5 on the lands situated any “urban area” within the specified area under Section 6A of the Tamil Nadu Urban Land Tax Act, 1966.

28. Urban land tax is levied and collected for every fasli from the owner of urban land [at the rate specified in the first Schedule].

Petitioner is therefore liable to pay urban land tax on the land even though the said land was allotted for industrial purpose by the Government of Tamil Nadu.

29. As per Section 6 of the Tamil Nadu Urban Land Tax Act, 1966, the market value of any urban land shall be estimated to be the price which in the opinion of the Assistant Commissioner, or the Tribunal, as the case may be, such urban land would have fetched or fetch, if sold in the open market on the date of the commencement of the Act.

30. Section 5C of the Tamil Nadu Urban Land Tax Act, 1966 was amended in the year 1991. Under sub-section 2 to Section 5C of the said Act, in respect of the areas specified in that sub-section (1), the market value as on 1st day of July 1971, shall be the basis.

31. The land in questions were transferred to the petitioner vide G.O.Ms.No.2296/Revenue Department dated 14.11.1990. The value of the land was fixed at 53,46,000/- [Rupees Fifty Three lakhs and forty six Thousand only].

32. The District Revenue Officer, Tiruvallur District,, Tiruvallur by an order dated 15.2.2019 also classified the land as Eri, Manavari and cart track and ordered issue of patta to the petitioner.

33. The dispute relating to the valuation was triggered on account of the failure of the petitioner to file returns under Section 7D of the Tamil Nadu Urban Land Tax Act, 1966. This led to initiation of proceedings under the Act seeking to revise the value of the land as of 1981.

34. As per the amendment to Section 5C of the said Act, under sub-section (2), for the purpose of determining the amount of urban land tax under sub-section (1) in respect of the areas specified in that sub-section, the market value as on the 1st day of July 1971 shall be the basis.

35. As per sub-section (2) and the other provisions of the Act, for determining the amount of the urban land tax under sub-section (1), the provisions of the Act shall, as far as may be, apply as they applied to the determination of the amount of urban land tax before the 1st day of July 1971.

36. Thus, the tax has to be paid on the value has to be determined as on 1st day of July 1971.

37. The Government in G.O.Ms.No.2296 dated 14.11.1990 has already indicated that the Collector, Chengai -Anna District had submitted a proposal for allotment of the lands on assignment basis on the collection of "Market Value" at the rate of Rs. 440/- per cent on the basis of sales statistics relating to the land at a distance of 3 km in the adjacent village.

38. The Special Commissioner and the Commissioner of Land Administration also considered that the land Sathangadu village may be given on conditional alienation basis, "on collection of double the market value" as it is required for industrial purpose and fix the land value at Rs.450/-per cent with

escalation for one year and the value came to Rs.495/- or Rs.49,500/-per acre. Over and above, this amount awards towards infrastructural development charges were added, thus the increasing the value at the time of the allotment.

39. Therefore, the question that arises for consideration as to whether the second respondent was justified in revising the market value determined by the Government at the time of allotment to the petitioner for industrial purpose covering and extent of 326 acres based on the market value of small parcels of land sold for housing purpose where obviously the transaction were driven by the market value.

40. Whether there can be any comparison between the un-developed poromboke land classified as Eri (water body) and Cart Track which were allotted to the petitioner at the time of allotment in the year 1990 with the land sold under a private negotiation for a smaller extent of Rs.1202 sq.ft as on 26.12.1980 or whether the market value of the land at Rs. 9,500/- per ground submitted by the petitioner.

41. The 2nd respondent has gathered statistics of sales between 1.7.1980 and 30.6.1991 from the Sub- Registrar's Office. The second respondent had considered the sale deed dated 7.5.1981 in Survey No.202/1 registered vide Document No.1022/1981 measuring and extent of 1080 sq.ft. which was sold for a sum of Rs.18,100/- and the value was worked out per ground as Rs. 40,222/-.

42. The other sale which took place during the period between 1.7.1980 and 30.6.1981 was registered along with the buildings and was for an extent below 1000 sq.ft.

43. The respondents have admitted that no sale transaction took place in the lands lying near the petitioner's company in their counter and therefore decided to consider the sale registered for Rs.18,100/- sale deed dated 7.5.1981 in Survey No.202/1 measuring and extent of 1080 sq.ft. and has thus arrived at Rs.32,000/-from Rs. 40,222/- after deducting 20% i.e 8044/-considering the location of the land assigned to the petitioner by the Government of Tamil Nadu.

44. To countermand the market value determined by the Government of Tamil Nadu vide G.O.Ms.No.2296 dated 14.11.1990 based on the recommendation of the Collector of Chenngai-Anna District and Administration thereto there should comparable size of the land. The market value of the land undeveloped cannot be countermanded based on the market value of smaller extent of land sold under private negotiations for housing purpose in few square feet. In fact, in the said G.O.Ms.No.2296 dated

14.11.1990 itself, the value was arrived by adding a sum of Rs.247,500/- towards infrastructure development charges to be incurred and thus the value was arrived at Rs.2,97,000/-per acre [Rs.49,500+2,47,500] .

45. The Hon’ble Supreme Court in Land Acquisition Officer, Sub Collector, Gadwal versus ShreelathaBhoopal (Smt) And Another (1997) 9 SCC 628, in the context of land acquisition Act, 1894 held that the Court has to put itself in the armchair of a prudent purchaser and put a question to itself whether the land, in the given circumstances would fetch the same market value as is likely to be determined by the court when small piece of land would be offered for sale.

46. In Chimanlal Hargovinddas Vs SPL Land Acquisition Officer(1988) 3SCC 751, the Hon’ble Supreme Court held that while a smaller plot is within the reach of many, a large block of land will have to be developed by preparing a layout, carving out roads, leaving open space, plotting out smaller plots, waiting for purchases et cetera.

47. I therefore do not find any reasons to justify the conclusion that the market value of smaller extent of land sold in the neighbouring village can be applied to countermand the market value determined by the Government of Tamil Nadu at the time of assignment of the land to the petitioner in the year 1990. Further, once a Committee of Experts has determined the market value, there is no reason as to why such value can be countermanded merely because small parcels of land meant for housing purpose may have fetched higher value unless there was any other evidence to infer artificial suppression in the value at the time of assignment of the land to the petitioner.

48. In my view, the market value of smaller extent of housing plots cannot from the basis for evaluation of the market value of large tract of land particularly where such lands were undeveloped and were used meant for industrial purpose .

49. The value of large extent of lands without any development and infrastructure may appreciate at a later point of time after such lands are developed by an assignee by putting up necessary civic amenities and conveniences/infrastructures.

50. Further, the land that was allotted to the petitioner came without any civic amenities and infrastructure and therefore in anticipation of future expenses towards infrastructure a sum of Rs.2,47,500/- per acre was added to determine the market value on the date of assignment.

51. Therefore, I do not find any reasons to sustain the impugned orders. I therefore set aside the impugned order and confirm the market value determined by the Government of Tamil Nadu vide G.O.Ms.No.2296 dated 14.11.1990 for the payment of Urban Land Tax by the petitioner for the period in dispute with consequential relief to the petitioner.

52. The petitioner is directed to pay arrears of urban land tax if any. If the petitioner has paid any amount in excess, it shall be adjusted against future Urban Land Tax.

53. In the result, the writ petition stands allowed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

KKD

To

1. The Urban Land Tax Tribunal,
   Office of the District Revenue Officer,
   Thiruvallur District.

2. The Assistant Commissioner,
   Urban Land Tax,
   Madhavaram, Kolathur,
   Chennai 600 099.

3. The Tahsildar,
   Ambattur Taluk,
   Ambattur, Thiruvallur District.

4. The Principal Commissioner and
   Commissioner of Land Reforms
   Chepauk, Chennai 600 005.

+1cc to Mr.S.Ramasubramanian & Associates, Advocate, S.R.No.14686
+1cc to the Government Pleader, S.R.No.15434

Order in
W.P.No.25586 of 2007 and
M.P.No.1 of 2007

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