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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.20203 of 2015
and
M.P.No.1 of 2015 & W.M.P.No.18302 of 2016

V.Ramakrishna Charitable Trust,
Represented by its Trustee
Mrs.Kavitha Dutt Chitturi
No.2, Dr.P.V.Cherian Crescent,
Egmore, Chennai - 600 008
Tamil Nadu. ... Petitioner

Vs.

1. Principal Secretary and Commissioner of Land Reforms,
Ezhilagam, Chepauk,
Chennai - 600 005.

2. The Assistant Commissioner (Urban Land Tax)
Madhavaram @ 2, Vivek Nagar,
Kolathur, Chennai - 600 099. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent bearing R.C.No.4117/2014/C3 dated 10.04.2015 and consequential revised orders passed by the second respondent in R.C.No.664/2011/B and proceedings in R.C.No.664/2011/C both dated 09.06.2015 with effect from Fasli 1401, and quash the same and further direct the first respondent to grant exemption from payment of Urban Land Tax in terms of Section 29(h) Act.

For Petitioner : Ms.R.S.Pornima
for Mr.Rajkumar Jhabakh

For Respondents : Mr.V.Nanmaran
Government Advocate

ORDER

The order dated 10.04.2015 passed by the first respondent is under challenge in the present writ petition. The consequential revised orders demanding urban land tax passed by the second

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respondent in proceedings dated 09.06.2015 is also under challenge.

2. The petitioner is a Public Charitable Trust challenging the orders impugned mainly on the ground that they are entitled for exemption for the entire land which are utilized for the purpose of running Educational Institutions. The petitioner is running a Polytechnic College known as 'V.Ramakrishna Polytechnic' at Sathangadu Village and they are offering various courses in the said Polytechnic College. The Polytechnic College is situated in the land extending to 14.31 Acres (257 grounds and 0880 sq.ft) in Ward D, T.S.No.5/1, Bk.13 of Sathangadu Village. The said land for the Polytechnic College was donated by M/s.Krishna Industrial Corporation Limited.

3. The Polytechnic College started functioning from the Academic Year 1982. The Director of Technical Education, vide letter dated 01.06.1985, has recommended the Government of Tamil Nadu to convert the Polytechnic College to Self Financial Educational Institution and accordingly, the Government issued G.O.Ms.No.628, Education Department, dated 08.05.1986 granting recognition to the Polytechnic College as a Self Financing Institution.

4. In this context, the learned counsel appearing for petitioner contended that the petitioner is entitled for exemption under the provisions of the Tamil Nadu Urban Land Tax Act, 1966, in view of Section 29(h) of the Act. The petitioner submitted an application seeking exemption and an enquiry was conducted by the authorities competent, who had submitted a Field Inspection Report and based on that, the impugned order has been passed, holding that the petitioner is partially entitled for exemption to the extent of 5 Acres (90 Grounds). The said exemption was granted considering the fact that the 5 Acres of land is prescribed as a norm for the purpose of running a Polytechnic College as per the All India Council for Technical Education (AICTE) Regulations.

5. The learned counsel appearing for the petitioner reiterated that when the entire land is being utilized for the benefit of the students studying in Polytechnic College, exemption is to be granted in full and such partial exemption granted is not in consonance by the exemption contemplated under the Act.

6. The petitioner has produced the entire sketch and the utilization of lands for the purpose of imparting education in the Polytechnic College. They have provided large extent of lands for playgrounds and laboratory purposes. However, the authorities competent failed to consider these aspects and

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formed an opinion that the petitioner is entitled for exemption in respect of the entire land, which is in their occupation, for the purpose of running a Polytechnic College.

7. The learned Government Advocate appearing for the respondents objected the said contention, by stating that the petitioner is owning a vast extent of land and the entire lands are not utilized for the purpose of imparting education through Polytechnic College. Therefore, the Assistant Commissioner (ULT), Madhavaram had assessed the lands under the amended Act, 1991, vide Urban Land Tax Case Nos.293 to 301/1401/Sathangadu, dated 13.12.1993, in favour of M/s.Krishna Industrial Corporation Limited with effect from Fasli 1401 and served to the urban land owner on 25.05.1994. Accordingly, a Demand Notice dated 22.02.1999 was raised by the Tahsildar, Ambattur. The petitioner Trust filed writ petition in W.P.No.3344 of 1999 challenging the demand notice. This Court granted a conditional stay to pay a sum of Rs.5,00,000/- before the Tahsildar, Ambattur, within a period of eight weeks. The petitioner filed writ appeal in W.A.No.1965 of 2002 and the said appeal was disposed on 12.06.2009 with a direction to the Registry to post the writ petition for early hearing. W.P.No.3344 of 1999 was dismissed by this Court vide order dated 02.09.2006 with a finding that as against the Assessment Orders, statutory remedies under Section 20 of the Act and revision under Section 30(1) of the Tamil Nadu Urban Land Tax Act, 1966 are available.

8. It is contended that after a lapse of seven years from the date of passing of the said order by this Court, the petitioner filed Revision Petition on 16.03.2013 before the first respondent against the Urban Land Tax Case Nos.293 to 301/1401/Sathangadu with a claim that the lands are eligible for exemption, since they are using the same for educational purposes.

9. Since the lands were assessed to urban land tax in the name of M/s.Krishna Industrial Corporation Limited and the petitioner has filed the revision petition, the Assistant Commissioner (ULT), Madhavaram was directed to re-examine the issue as per the Act and pass revised orders in the name of the correct assessee in proceedings dated 07.03.2014. Accordingly, the Assistant Commissioner (ULT), Madhavaram, on perusal of the records produced by the petitioner and after inspecting the lands, passed Assessment Orders in the name of M/s.V.Ramakrishna Charitable Trust for an extent of 254 grounds and 880 sq.ft vide order dated 27.05.2014.

10. Against the said order passed by the Assistant Commissioner (ULT), Madhavaram, the petitioner again filed a revision petition on the ground that the lands are eligible for

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exemption. Based on the records furnished by the petitioner regarding the utilization of the entire extent of land and considering the fact that the number of students studying in the Polytechnic College with reference to the norms prescribed by AICTE, the first respondent passed the order dated 10.04.2015, which is impugned in the present writ petition.

11. Question arises whether the petitioner is entitled for exemption for the entire portion of the land in their occupation or entitled for partial exemption with reference to certain facts and circumstances.

12. Section 29(h) of the Tamil Nadu Urban Land Tax Act, 1966 enumerates that

(h) any urban land used by Schools, Colleges or Universities for purpose directly connected with education, but not 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.

13. The petitioner institution is a self financed institution recognized by the Government of Tamil Nadu. Admittedly, they are collecting fees from the students for imparting education in the said Polytechnic College. Regarding utilization of the land, the authorities competent considered the inspection reports. The petitioner submitted that the details regarding utilization of the land, reply to the report and sketch of the Assistant Commissioner (ULT), Madhavaram, the plan approval and the date of building completion with certificates and utilization of building commencement regarding the proposal fir utilization of the land.

14. The Polytechnic College has occupied the entire area of 57,400 sq. mts with the existing buildings and laboratories with adequate circulation areas, road area, such as main roads connecting roads to each buildings as contemplated under various plan approval rules of statutory bodies.

15. With reference to the reply submitted by the petitioner to the report and sketch of the Assistant Commissioner (ULT), Madhavaram dated 01.07.2014, it is found that the inspection was conducted by the Assistant Commissioner (ULT), Madhavaram in the presence of the petitioner and it was reported that the lands which were kept vacant during his previous inspection are developed and utilized as follows:-

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As per Petitioner's Sl.No.	A.C's Ref. No.	Utilization	Extent Gr. - Sq.ft.	Extent Sq.mts
35	A	Vehicle Parking	6-1045	1435
	B	Open Air Auditorium	13-1197	3010
26 & 36	C	Admin Office and Assembly Area	6-2175	1540
25	D	Library, Seminar Hall and Surrounding Area	3-0173	685
38	E	Play Area for Girls	3-0872	750
37	F	Field for Survey Lab	14-1918	3300
39	G	Play Area for Boys	5-0916	1200
4 to 8, 14, 15	H	1. M.T. Lab 2.Electrical Cable Lab 3.Stock Room 4.Well 5.Fitting, Welding Splitting Lab 6.Workshop 7.Electronic Lab	11-0938	2540
27, 28, 29	I	1.New Canteen 2.Store Room for sports accessories and food items 3.Survey Lab 4.Pathway	3-1410	800
19 to 23	J	1.Computer drafting Lab 2.Temple 3.Electrical Items Room 4.Electrical Items and Workers Room 5.English Class Room and Surrounding Area	6-1099	1440
18, 32, 33, 41, 42	K	1.Stage for Drill 2.Cafeteria 3.Cycle Parking 4.Watchman Room	14-0842	3200
34	L	Play Area for Football	27-2146	6220

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As per Petitioner's Sl.No.	A.C's Ref. No.	Utilization	Extent Gr. - Sq.ft.	Extent Sq.mts
2, 3, 9 to 13, 16, 56	M	1.Automobile Lab 2.IT Lab 3.F.M.and M.M. Lab 4.Physics and Chemistry Lab 5.Electronics and Computer Lab 6.First Year Class Room 7.Pathway for above places.	18-1897	4190
1, 55	N	Mechanical and Automobile Class Room and Test Vehicle Parking Area	3-0334	700
40	O	Play Area for Cricket and other game	57-0536	12760
44 to 54	Pained Area	Area for Road	61-0300	13630
		Total	257-0998	57400

Regarding item No.3 & 4, the petitioner in his letter dated 05.12.2014 has furnished the details of date of plan approval, completion of construction and utilization of Buildings and are as follows:-

Sl.No.	Name/Utilization of the Building	Plan Approval No. Date TVT Municipality	Date of Completion	Date of Commencement of Utilization
1.	Electrical Lab	C/PP/51 E-L/85 10.04.85	November 1985	December 1985
2.	Carpentry, Survey & Mechanical Testing Lab	C/PP/51 E-L/85 10.04.85	December 1985	January 1986
3.	Welding Shop & Hydraulic Lab	C/PP/51 E-L/85 10.04.85	November 1985	December 1985

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Sl.No.	Name/Utilization of the Building	Plan Approval No. Date TVT Municipality	Date of Completion	Date of Commencement of Utilization
4.	Civil Lab	C/PP/51 E-L/85 10.04.85	January 1986	February 1986
5.	Fitting, Smithy & Foundry Shop	C/PP/51 E-L/85 10.04.85	November 1985	December 1985
6.	Heat Engines Lab	C/PP/51 E-L/85 10.04.85	October 1985	December 1985
7.	Additional Building	C/PP/51 E-L/85 10.04.85	February 1986	March 1986
8.	Civil Engineering Class Rooms	PP/241/10/F1 26.8.2010	May 2011	June 2011
9.	Administrative Office and Class Rooms	PP/241/10/F1 26.8.2010	December 2011	January 2012
10.	Revised Site Plan	PP/241/10/F1 26.8.2010	May 2011	June 2011
11.	Civil Engineering Rooms	PP/241/10/F1 26.8.2010	August 2011	September 2011
12.	Civil Lab	PP/241/10/F1 26.8.2010	December 2012	January 2013
13.	Electrical Lab	PP/241/10/F1 26.8.2010	June 2011	July 2011
14.	Canteen	C/PP/51 E-L/85 10.4.85	September 1985	October 1985
15.	Additional Construction of Canteen	PPG/331/2011 27.10.2011	May 2012	June 2012

16. During further hearing on 12.12.2014, the Principal Secretary and Commissioner of Land Reforms considered the report of the Assistant Commissioner dated 29.01.2015 which was found completely in variance with his earlier report dated 01.07.2014.

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17. The findings of the first respondent reveals that in the first report of the Assistant Commissioner having inspected has given with sketch an extent of utilized lands for buildings and playground, parking etc., as 38 grounds 2328 sq.ft and unutilized as 218 grounds 0952 sq.ft for the total of 257 grounds 0880 sq.ft. This was asked to be done once again in the presence of the petitioner and the extent of utilized lands in the second report has been stated as 257 grounds 0880 sq.ft and unutilized lands as 'Nil' with the total lands being the same 257 grounds 0880 sq.ft.

18. The findings of the first respondent further states that the additional utilized roads, additional playgrounds and variations from earlier extents of different buildings as well, and all lands appurtenant and around the buildings and playgrounds etc. A comparison of specific areas with buildings was taken up and it was seen that there was increase of almost three or more times for every group of buildings marked as an area in the second color wash sketch with extent some such variations.

19. In the second report, the road area has taken up 61 grounds 0300 sq.ft. The playgrounds have increased multiple times. There are grounds now for Football, Cricket, Athletics, Girls' Volleyball, Shuttle, another play area for boys with Shuttle, Volleyball, Ball Badminton, etc. There is field for Survey Lab separately for 14 grounds 1918 sq.ft. A separate Open Air Auditorium space of 13 grounds 1197 sq.ft.

20. Such expansion and multiplying factors of buildings being seen in the second report indicates a clear error in the second report and accordingly, the first respondent formed an opinion that there is no justification for the purpose of such expansion and the expansion is shown only for the purpose of escaping from the levy of urban land tax.

21. When the lack of bonafide regarding the utilization of the entire portion of the land is established, the first respondent formed an opinion that in the petitioner's Polytechnic College, around 1000 students are studying and the courses offered is for three years. Thus, taking the norms prescribed by the AICTE, the exemption was granted for 5 Acres.

22. Let us now consider the scope of exemption under Section 29(h) of the Tamil Nadu Urban Land Tax Act, 1966. The exemption is granted undoubtedly for any urban land used by Schools, Colleges or Universities for the purposes directly connected with education. However, such an exemption is not applicable in respect of urban lands owned by such educational institutions, which is vacant.

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23. The very purpose of the Act is to ensure that the lands earmarked for the purpose of running educational institutions is utilized for its purposes and if any additional lands are there, the same cannot be brought to the exemption clause. In view of the fact that there were certain discrepancies in two inspection reports submitted by the Assistant Commissioner and there were lot of expansions identified during the second inspection, the first respondent thought it fit to grant exemption, considering the number of students studying and taking into account the norms prescribed by the AICTE for the purpose of running a Polytechnic College.

24. This apart, the petitioner earlier filed writ petition challenging the demand notice and the said writ petition was dismissed by this Court on 02.09.2006. The revision petition itself was filed after a lapse of seven years and under these circumstances, the petitioner is not entitled for the benefit of exemption for the entire extent of land.

25. This Court do not find any perversity or infirmity as such, in respect of the assessment made with reference to the facts and circumstances established. The consideration shown by the first respondent for granting exemption is based on the materials available on record and the exemptions are granted in favour of the petitioner to the extent of 5 Acres and in respect of other vacant lands, the petitioner is liable to pay tax.

26. This being the factum, the impugned order dated 10.04.2015 passed by the first respondent in proceedings Rc.No.4117/2014/C3 and the consequential revised orders dated 09.06.2015 passed by the second respondent in proceedings Rc.No.664/2011/B and Rc.No.664/2011/C, are confirmed.

27. With the above observations, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO-IX)

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Sub Assistant Registrar

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To

1. Principal Secretary and Commissioner of Land Reforms,
   Ezhilagam, Chepauk,
   Chennai - 600 005.

2. The Assistant Commissioner (Urban Land Tax)
   Madhavaram @ 2, Vivek Nagar,
   Kolathur, Chennai - 600 099.

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