IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.04.2021

PRONOUNCED ON : 27.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(NPD)No.805 of 2016
CMP.No.4449 of 2016

(Through Video Conferencing)

Dr.Thilak Kiruba ... Petitioner

Vs

The Commissioner, Salem City
Municipal Corporation, Salem ... Respondent

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, to set aside the order dated 31.03.2015 made in CMA.No.22 of 2012, by the III Additional District Judge, Salem, confirming the order dated 28.02.2012, passed in TAT.No.327 of 2009 by the Taxation Appellate Tribunal, Salem Corporation.

For Petitioner : Ms.Elizabeth Ravi for Mr.P.Raja

For Respondent : Mr.S.Diwakar, SC

ORDER

1. This Civil Revision Petition has been filed, to set aside the order dated 31.03.2015 made in CMA.No.22 of 2012, by the III Additional District Judge, Salem, confirming the order dated 28.02.2012, passed in TAT.No.327 of 2009 by the Taxation Appellate Tribunal, Salem Corporation.

2. The facts of the case, in a nutshell, are that aggrieved over the revised

assessment of tax from Rs.12,863/- to Rs.22,510/-, the Petitioner has filed an appeal in TAT.No.327 of 2009, before the Tribunal and by the impugned judgement, the appeal was dismissed and the CMA filed as against the same before the appellate court was also dismissed, confirming the judgement of the Tribunal. Hence, this Civil Revision Petition has been filed.

3. The learned counsel for the Petitioner has submitted that at the time when the building in question was inspected by the Respondent, it was found to be lying vacant and that when the building in question is kept vacant and when he had already sent a letter dated, nil, intimating the same and he had also sent another letter dated, 11.07.2009 and the provisions of Section 127 of the Coimbatore City Municipal Corporation Act, ought to have been applied and hence, the impugned orders are not sustainable.

4. The learned counsel for the Respondent, by filing a counter, has submitted that though the building in question is kept vacant, the Petitioner failed to report about the same to the Respondent and to avail the benefit of vacant remission provision for the same and that as per the resolution passed by the Council and as per the norms, the revised tax has been arrived at and hence, it need not be interfered with and accordingly, the impugned orders are just and proper.

5. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.

6. The case of the Petitioner is that the building in question is kept vacant and is not being used for any commercial purposes, as alleged in the assessment

notice and it was also admitted by the Respondent on their inspection of the building in question and hence, he ought to have been granted remission to the property tax. Per contra, it is the contention of the Respondent that as per the relevant provisions of law, the Petitioner has failed to avail the request for vacant remission to the Respondent for the alleged vacant building and hence, he is not entitled for the same.

7. As per Section 127(3)(a) of the Coimbatore City Municipal Corporation Act, no claim for such remission shall be entertained unless the owner of the building or agent has previously thereto delivered a notice to the commissioner that (i) the building is vacant and unlet or (ii) the building will be vacant and unlet from a specified date either in the half year in which notice is delivered or the succeeding half year.

8. As per the above provision, it is the bounden duty of the owner to report about the vacant position of the building in question, for availing remission, to the Commissioner. In this case, though it is alleged by the Petitioner that the building in question is lying vacant, which was also admitted by the Respondent and he had intimated the same to the Respondent, by way of letters dated nil and 11.07.2009, the Petitioner has miserably failed to prove that he had delivered such a notice to the Commissioner, invoking vacant remission provision for non-payment of tax for the building in question, by producing valid documents. In the absence of any proof for vacant remission requisition being made by the Petitioner to the Respondent, the tax had rightly been revised by the Respondent as per the rules, which was rightly

A.A.NAKKIRAN, J.

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confirmed by both the Tribunal and the appellate Court, by the impugned orders, which warrant no interference by this Court.

9. In fine, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MP is closed.

27.04.2021

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

1. The III Additional District Judge, Salem
2. The Taxation Appellate Tribunal, Salem Corporation

Pre-Delivery Order in
CRP(NPD)No.805 of 2016