IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.10935 OF 2017

Madras Sheet Glass Works (P) Limited,
67-A, Village Street (Glass Factory Road),
Thiruvottiyur,
Chennai - 600 019.
Rep. By its Managing Director
Mr.Lalit Varshnei ... Petitioner

.Vs.

1. The District Revenue Officer,
   Tiruvallur.

2. The Assistant Commissioner,
   Urban Land Tax,
   (Madhavaram Zone),
   No.248, Periyar EVR High Road,
   Chennai - 600 029.

3. The Tahsildhar,
   Tiruvallur. ... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent dated 19.11.2016 in Ref.No.Na.Ka.17227/1997 LR-1 confirming levy of tax by the orders of the second respondent dated 13.04.1993 and errata dated 02.07.1993 vide Ref.No. ULT Case No.26/1401 to 42/1401 and errata dated 02.07.1993 vide ULT Case No.27 and 38/1401 and quash the same and further direct the respondents to pass revised orders in respect of lands covered by the above ULT Case No.26/1401 to 42/1401.

For petitioner : Mr.V.Ramesh
For Mr.T.Thiyagarajan

For Respondents : No-appearance

ORDER

The writ on hand is filed challenging the order passed by the first respondent dated 19.11.2016 confirming levy of tax by the orders of the second respondent dated 13.04.1993 and errata dated 02.07.1993 vide Ref.No. ULT Case No.26/1401 to 42/1401 and errata dated 02.07.1993 vide ULT Case No.27 and 38/1401 and quash the same and direct the respondents to pass revised orders in respect of lands covered by the above ULT Case No.26/1401 to 42/1401.

2. The petitioner is the owner of the lands in several Survey Numbers at Thiruvottiyur Village and the land belongs to the petitioner has been assessed by the second respondent under the provisions of the Tamil Nadu Urban Land Tax Act, 1966, by an order of the Assistant Commissioner dated 30.09.1977. The tax levied during the year 1975-76 was to an extent of Rs.20,000/-. The second respondent took into account about 281 grounds as total extent in about 16 survey numbers. The 2nd respondent exempted only three grounds under Section 29-A of the Act and levied tax for 278 grounds and 109 sq.ft. Admittedly, the Act was amended with effect from fasli 1401 i.e., 01.07.1991 and the market value of the property, as it existed from 01.07.1981, was to be adopted for the purpose of determining the market value before levying tax under the Urban Land Tax Act. The second respondent passed a revised order vide ULT.No.26 of 1401 to 42 of 1401 and passed an order of assessment on 13.04.1993. The total tax levied was Rs.1,09,064/- for an extent of about 278 grounds which was followed by an errata dated 02.07.1993 and the total tax was revised to Rs.98,346/- per fasli from fasli 1401.

3. Questioning the orders of the 2nd respondent regarding the assessment made, the writ petitioner filed an appeal to the Urban Land Tax Tribunal namely Sub-Judge, Chengalpet as per the provisions of the Act then existed and the Tribunal also confirmed the order passed by the Assistant Commissioner. Thus, the writ petitioner is constrained to move the present writ petition.

4. The learned counsel appearing for the petitioner reiterated that in order dated 14.10.1977, the Assistant Commissioner, Urban Land Tax, made a categorical finding that the trend of the sales in Balakrishna Nagar comprising of S.Nos.283 etc. it is more or less the value arrived at as per guidelines register. The value as per guidelines register is Rs.5000/- per ground, for the lands in Balakrishna Nagar. Thus, the Assistant Commissioner found the guidelines valuation is reasonable for the lands in Balakrishna Nagar and the similar lands. Subsequently, the Assistant Commissioner in proceedings dated 13.03.1979, again made a finding holding that there has

been a sale of one ground of land S.No.814/1D under Doc.No.1865 dated 15.09.1980 for a sum of Rs.91,000/-. As the land covered by the mentioned sale and case lands are almost similar, the Assistant Commissioner considered the sale price is just and reasonable. In the absence of any documentary evidence in support of the claim for lower value, the claim of the petitioner was rejected and accordingly, the market value was fixed at Rs.91,000/- per ground.

5. The learned counsel appearing for the petitioner reiterated that a specific ground is raised by the petitioner in the grounds of appeal filed before the Urban Land Tax Tribunal namely Sub-Judge, Chengalpet, wherein the petitioner has stated that the Assistant Commissioner should have passed separate orders for each Survey number and should have assessed each Survey Number separately. He should have ascertained the market value of each Survey Number separately instead of grouping them. In fact, in the original order at the time of final assessment, two different market values were fixed. The land taken as data land is not similar and is far away from the case lands and not comparable. The Assistant Commissioner erred in relying upon the sale of a small extent for fixing the market value of a large area of land. Sales of adjacent similar lands indicate a market value of not more than Rs.10,000/- per ground.

6. The grievance of the writ petitioner is that the specific ground raised by the petitioner in the grounds of the appeal had not been considered even by the Tribunal despite the fact that the Tribunal is empowered to assess the tax independently under Section 6 of the Urban Land Tax Act. Thus, the Tribunal also erred in not considering the specific ground raised by the petitioner in the grounds of appeal.

7. The learned counsel appearing for the petitioner contended that even at the time of final hearing, memorandum of arguments were submitted before the Tribunal reiterating the said arguments. Inspite of that, the same has not been considered by the Tribunal. Thus, the petitioner is constrained to move the present writ petition.

8. The learned counsel appearing for the petitioner is of the opinion that a pertinent ground raised by the petitioner is that the larger extent of property owned by the petitioner on the western side of the Railway Track in a low lying land area must be assessed independently and there is no finding in this regard even in the impugned order dated 19.11.2016. There is no whisper about the contention raised in this regard by the petitioner repeatedly. Assessment is to be made with reference to the locality and the market value prevailing in the said area. However, relying on the original assessment made by the

Assistant Commissioner, the Appellate Authority also passed an order just following the said assessment, without considering the ground raised by the petitioner regarding the market value actually prevailing in that locality.

9. None appeared for the respondents.

10. This Court is of the considered opinion that as far as the revenue is concerned, strict interpretation of law is to be adopted. Payment of tax is the law and the assessment is to be made by following the procedures contemplated in the Statute and Rules.

11. Let us now consider the scope of Section 6 of the Tamil Nadu Urban Land Tax Act, 1966 which reads as under:

> "For the purpose of this Act, 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 this Act."

12. Insertion of 1-B Extension of the The Tamil Nadu Urban Land Tax (Amendment) Act, 1991 to Scheduled Areas is also unambiguous.

13. With reference to Section 6, this Court has to consider whether the assessment has been made properly or not. Undoubtedly, the market value differs from area to area and time to time. There is no possibility of form an uniform opinion at all times, in view of frequent changes in market value, especially, in urban areas. As pointed out by the petitioner in the year 1977, the Assistant Commissioner assessed the value as Rs.5,000/- per ground for the lands in Balakrishna Nagar and it was found reasonable.

14. As far as the subsequent order passed by the Assistant Commissioner, Urban Land Tax is concerned, a specific ground was taken that there has been a sale of one ground of land in Survey No.814/1D under Document No.1865 dated 15.09.1980 for a sum of Rs.91,000/-. A finding is made that as the land covered by the mentioned sale and case lands are almost similar, the Assistant Commissioner formed an opinion that the sale price is just and reasonable. Importantly, the Assistant Commissioner made a finding that the petitioner could not able to produce any documentary evidence in support of his claim for lower value or any other document registered in respect of adjacent land or similar land in the same location. In the absence of any

supportive document, the Assistant Commissioner fixed the market value at Rs.91,000/- per ground.

15. Though the learned counsel appearing for the petitioner raised a ground that the Assistant Commissioner should have passed separate orders for each survey number and should have assessed each survey number separately, this Court is of the considered opinion that it is not possible to have such an assessment with reference to the complex nature of survey numbers prevailing in urban areas. However, the facts regarding the similarity of the land and the value of the adjacent lands are the subjective satisfaction of the Authority, who conducted an inspection and must be based on some reasoning, more specifically, with reference to the documents and evidences. In other words, the documents and evidences must be the criteria for the purpose of such assessment. Separate assessment for each survey number is impractical. In this regard, Section 6 of the Tamil Nadu Urban Land Tax Act, 1991, the provision contemplates that "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". Thus, it is the subjective satisfaction of the Assistant Commissioner or the Tribunal. The parties are at liberty to submit their documents or evidence to establish their case. In the event of filing a document or evidence to that effect regarding lower value, then the said documents are to be considered by the Assistant Commissioner or by the Tribunal. In the absence of any such documents, the ground raised that an independent assessment is to be made for each survey number cannot be accepted at all.

16. As far as the impugned order is concerned, it is contended that the document relied on by the respondent is relating to a smaller extent of land. It is irrelevant, whether the registration of the document is done for a smaller extent or larger extent of land. The market value is to be determined, if the lands in question fall within nearby vicinity. The assessment procedures even in the Statute contemplate that if the lands fall nearby vicinity or adjacent or similar, then the same value can be adopted for the purpose of assessment of tax. Broad guidelines are provided, in view of the fact that a practical approach is to be adopted for determining the market value of the urban land. Thus, in the present case, the Assistant Commissioner relied on a document, which was registered, more specifically, in Survey No.814/1D under Document No.1865 dated 15.09.1980 for a sum of Rs.91,000/-. There is a finding that the land covered by the mentioned sale and the case lands are almost similar. Further, the assessment is made by the Assistant Commissioner that the sale price is just and reasonable. Thus, it is made clear that the Assistant

Commissioner considered the sale of one ground of land in Survey No.814/1D under Document No.1865 dated 15.09.1980 for a sum of Rs.91,000/- and further, formed an opinion that the land covered by the mentioned sale and the case lands are almost similar. Not stopping with that, the Assistant Commissioner has independently made an observation that the sale price made in the said document is just and reasonable. Therefore, the Assistant Commissioner has considered the market value stated in the document registered and the similarity of the subject property with reference to the sale document relied on and further, just and reasonable sale price quoted in the said document. Since these aspects are considered by the Assistant Commissioner, the High Court cannot exercise the powers under Article 226 of the Constitution of India for the purpose of substituting the market value. Undoubtedly, the process adopted by the respondents is in consonance with the provisions of the Act and the petitioner has also availed the opportunity and defended the case. In view of the fact that the Tribunal was in agreement with the assessment made by the Assistant Commissioner, the said reasoning was adopted and the order of the Assistant Commissioner was confirmed by the Tribunal. In view of this, there is no perversity or infirmity as such and the petitioner could not able to establish his case through any document or evidence for the purpose of establishing the market value as stated in the grounds of the appeal. Thus, the respondents considered the grounds raised by the petitioner in a right perspective.

17. Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssb

To

1. The District Revenue Officer,
   Tiruvallur.

2. The Assistant Commissioner,
   Urban Land Tax,
   (Madhavaram Zone),
   No.248, Periyar EVR High Road,
   Chennai - 600 029.

3. The Tahsildhar,
Tiruvallur.

RLD(CO)
PBS/18/08/2021