IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.29600 of 2019
and
WMP. Nos.29491 & 29493 of 2019

Heat and Control (South Asia) Pvt Ltd,
Plot No.2, 8th Avenue, 1st Cross Road,
Mahindra World City,
Chengalpattu Taluk,
Kancheepuram District - 603 004
Rep by its Director …Petitioner

Vs

1.Government of Tamil Nadu,
Rep. by Secretary
Department of Revenue,
Fort St George, Chennai 600 009.

2.Kunnavakkam Panchayat,
Kattankollathur Union,
Represented by Special Officer,
Chengalpattu,
Kancheepuram District 603 204. … Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the Second Respondent to issue an order of assessment pursuant to the representations of the petitioner made on 05.12.2018 and 11.07.2019 and collect the property tax, library cess and surcharge, strictly in terms of the provisions of the Tamil Nadu Panchayat Act, 1994.

For Petitioner : Mr.Anand Gopalan

For Respondents: Mr.R.P.Pratap Singh,
Government Advocate

ORDER

The petitioner has prayed for a mandamus directing the second respondent - Special Officer, Kunnavakkam Panchayat, Kattankulathur Union to issue an order of assessment, pursuant to its representations dated 05.12.2018 and 11.07.2019 and collect property tax, library cess and surcharge in terms of the provisions of the Tamil Nadu Panchayat Act, 1994.

2. This matter has been coming up for hearing on various occasions and on 03.06.2020, the assurance of Mr.Pratap Singh, learned Government Advocate to the effect that the representations would be considered and an order of assessment would be passed after hearing the petitioner, was recorded. A time frame of four weeks was fixed and the following directions issued:

> 3. Time frame is fixed for four (4) weeks, within which time, the following directions will be complied with:
>
> (i) The petitioner will remit admitted tax as per its computation within a period of one (1) week from today.
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> (ii) Upon compliance of direction (i), the petitioner will be heard either physically or through video conferencing as may be appropriate/convenient and an order of assessment will be passed within a period of three (3) weeks thereafter.
>
> (iii) In finalising the assessment, the petitioner is at liberty to produce any/all materials in support of its basis of computation including the schedule to the Tamil Nadu Panchayats Act, 1994, which according to the petitioner, fixes a ceiling on the amount to be subject to tax as well as rate of tax. The assessment will be completed de novo and by way of a speaking order.

3. The matter came up thereafter on 07.07.2020, 19.08.2020 and 21.09.2020. On 21.09.2020, learned counsel for the respondent stated that orders had been passed on 01.09.2020 and served upon the petitioner. A copy of the order was directed to be placed on record. On 09.10.2020, Mr.Suryanarayanan, learned counsel appearing for R2 corrected the statement that the order had been passed on 21.09.2020 stating that inspection had itself been conducted only on 07.10.2020 and notice for assessment would only be issued thereafter. Some more time was sought for completing the process of assessment. Finally, on 24.11.2020, he stated that an order of assessment had been passed on 19.11.2020 and communicated to the petitioner on 22.11.2020. The order is before me. I find that the same is merely a cut and paste of communication dated 28.09.2020.

4. There is no reference to the representations of the petitioner. Moreover, though inspection is stated to have been carried out on 07.10.2020, the order states in the reference that the inspection was carried out on 31.08.2020. The body of the order contains no whisper about the same. Evidently, there has been no application of mind in the passing of the impugned order.

5. Though the petitioner has prayed only for a mandamus seeking disposal of its representations dated 11.07.2019 and 05.12.2018, seeing as order dated 19.11.2020 is passed without either following proper procedure or taking note of the matter in proper perspective, I mould the relief sought and quash order dated 19.11.2020. The petitioner will continue to remit the property tax at the prevailing rates.

6. This Writ Petition is allowed. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To
1.The Secretary, Government of Tamil Nadu,
Department of Revenue,
Fort St George, Chennai 600 009.

2.The Special Officer, Kunnavakkam Panchayat,
Kattankollathur Union,
Chengalpattu,
Kancheepuram District 603 204.

+1cc to Mr.T.S.Gopalan & Co, Advocate SR.3604
+1cc to Mr.D.Suriya Narayanan, Advocate SR.3688
+1cc to the Government Pleader SR.4016

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BR(CO)

CB(17/02/2021)