CMP.No.5754 of 2022 in W.A.No.969 of 2021

R. MAHADEVAN, J.
and
J.SATHYA NARAYANA PRASAD, J.

(Order of the court was made by R.Mahadevan, J.)

Seeking modification of the direction issued by this court in the judgment dated 17.02.2022 passed in the writ appeals, and for consequential direction, the appellant Trust has come up with this miscellaneous petition.

2.This court, by judgment dated 17.02.2022, disposed of the writ appeals viz., WA.Nos.969 and 970 of 2021 filed by the appellant Trust, in the following terms:

> *“5.In view of the limited relief now sought by the learned counsel for the appellant, which has not been seriously opposed on the side of the respondents, this court directs the first respondent to consider the application filed by the appellant under section 27 of the Tamil Nadu Urban Land Tax, 1966, seeking exemption from payment of Urban Land Tax, in the light of the decisions rendered by the Division Bench of this court as referred to above and pass appropriate orders, on merits and in accordance with law, after providing due opportunity of hearing to the appellant, within a period of twelve (12) weeks from the date of receipt of a copy of this Judgment."*

3.According to the appellant Trust, originally, they were exempted from payment of urban land tax, as per G.O.Ms.No.2122 Revenue dated 27.10.1977 issued by the Government, in exercise of power conferred under section 27(1)(a) of the Tamil Nadu Urban Land Tax Act, 1966. Subsequently, the said exemption was withdrawn by the Government for the alleged violation of certain conditions imposed in the said G.O., which gave rise to the filing of the writ proceedings. In the order dated 25.01.2021, which was impugned in the writ petitions, the learned Judge granted liberty to the appellant Trust to approach the Government for grant of exemption by filing application under section 27 of the Tamil Nadu Urban Land Tax, 1966 and also directed the first respondent to consider the application, if so filed by them. Subsequently, in the judgment dated 17.02.2022 passed in the writ appeals filed by the appellant Trust, which is sought to be modified herein, the same direction was issued to the parties, as done by the learned Judge, at the request made on the side of the appellant Trust.

4.The appellant Trust further averred in the affidavit filed in this modification petition that considering the nature of the activities carried on by them, the Income Tax Department granted a certificate under section 12A exempting the trust from payment of tax. They are also governed by the provisions of section 29(c)(j)&(k) of the Tamil Nadu Urban Land Tax Act, 1966, r/w section 101(c) of the Chennai City Municipal Corporation Act and hence, they are exempted from payment of urban land tax. For claiming the said benefit, they preferred an application, which is pending consideration before the Government. Inadvertently, the said fact was not properly placed before this court at the time of disposal of the writ appeals, due to which, the Government by letter bearing No.33434/ULC3(1)/2015-21, dated 29.07.2021, directed the appellant Trust to apply for grant of exemption under section 27(1) of the Act. Therefore, this miscellaneous petition by the appellant Trust to modify the direction issued to the first respondent to the extent of considering the application filed under section 29 of the Act, as well.

5.The learned counsel for the appellant has also produced the copies of the letter in Rc.No.B3/5423/2005 dated 06.04.2022 sent by the second respondent and letter bearing No.33434/ULC3(1)/2015-28 dated 01.04.2022 sent by the first respondent, both addressed to the appellant, and submitted that as per the order of this court dated 17.02.2022 passed in the writ appeals, the appellant Trust was directed to appear along with relevant documents in support of their claim, for a personal hearing scheduled to be held on 12.04.2022 @ 5.00p.m in the

Chambers of the Principal Secretary to Government, Revenue and Disaster Management Department, Secretariat, Fort St. George, Chennai - 600 009. Therefore, the learned counsel sought to modify the operative portion of the judgment dated 17.02.2022 passed in the writ appeals and issue a direction to the first respondent to consider the application filed by the appellant Trust under section 29(c)(j)&(k) of the Urban Land Tax Act, also.

6.Heard the learned Additional Government Pleader appearing for the respondents, who raised no objection for granting such relief to the appellant.

7.Having regard to the above submissions and also considering the fact that the appellant Trust has already filed an application under section 29 of the Act, seeking exemption from payment of urban land tax, which is pending consideration before the Government, the first respondent shall also consider the application filed by the appellant Trust under section 29 of the Act, in the light of the decisions rendered by this court in ***Southern India Education Trust rep.by its Secretary S.M.Kamaluddin Fakhri v. The Government of Tamil Nadu and another [1999 (III) CTC 711] and Gurukkal Lutheran Theological College and Research Institute v. The Commissioner,***

Corporation of Chennai and another [WA.No.582 of 2020 etc. batch dated 01.12.2020] and pass appropriate orders, on merits and in accordance with law, after providing due opportunity of hearing to the appellant Trust, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8.Accordingly, paragraph 5 of the judgment dated 17.02.2022 passed in the writ appeals, alone, is modified and this miscellaneous petition stands disposed of.

[R.M.D., J.] [J.S.N.P., J.]
07.04.2022

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Note: Issue order copy on 11.04.2022

R. MAHADEVAN, J.
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J.SATHYA NARAYANA PRASAD, J.

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