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18.05.2023
Ct. No. 15
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W.P.A. 16193 of 2015

Saila Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Sandip Ghosh
Mr. Partha Sarkar

....for the petitioner

Mr. Ayan Banerjee
Ms. Debasree Dhamali
Ms. Riya Ghosh

...for the Bally Municipality

In the writ petition demand notice dated 5th April, 2014 issued by Bally Municipality towards payment of property tax till 4th quarter 2014-2015 along with interest and surcharge is under challenge. The total amount which has been demanded by the Municipality is Rs. 57,990.36. Petitioner has also instituted this writ petition for grant of installments and waiver of interest while making payment as per demand notice dated 5th April, 2014.

Matter was heard previously in presence of the learned advocates representing the petitioner and Bally Municipality and this Court by passing order dated 11th May, 2023 directed the Municipality to place calculation before this Court relating to the amount payable by the petitioner till 4th quarter 2014-2015 and the amount which is also payable from 1st quarter 2015-2016 till date. Municipality was also directed to delve into waiver of interest as claimed vide demand notice dated 5th April, 2014.

Today, Mr. Ayan Banerjee, learned advocate representing the Municipality has placed before this Court revised calculation up to 4th quarter 2014-2015. According to the Municipality, as per the revised calculation up to 4th quarter 2014-2015, Rs. 86,784.14 is payable by the petitioner up to 4th quarter 2014-2015.

The amount payable by the petitioner to the Municipality towards property tax from 1st quarter 2015-2016 till date is not an issue before this Court though oral prayer has been made on behalf of the petitioner for waiver of interest which has been levied on the property tax from 1st quarter 2015-2016 till date which ought not to be delved into by this Court while adjudicating the present writ petition. However, prayer has been made in this writ petition for grant of installments and waiver of interest in connection with the sum which has been payable pursuant to the demand notice dated 5th April, 2014 which is annexure P4 to this writ petition. It further appears on perusal of such demand notice dated 5th April, 2014 that Rs. 25,155.00 has been levied as interest. Due to levy of interest and non-grant of installments petitioner did not pay the amount as per said demand notice dated 5th April, 2014 and the writ petition has been pending from its institution on 14th July, 2015.

In order to resolve the issue relating to payment of property tax in view of demand notice dated 5th April, 2014 this Court directs the concerned authority of Municipality to accept the payment to be made by the petitioner by granting waiver of 50% interest which has been levied on the property tax assessed up to 4th quarter 2014-2015 and revised demand notice would be issued by the Municipality upon calculating the amount as per the direction passed by this Court within 7 (seven) days from date for payment of tax up to 4th quarter 2014-2015. On receipt of such demand notice by the petitioner, the petitioner shall pay the same within 15 (fifteen) days thereafter.

However, it is made clear that subsequent interest which has been levied on the amount payable towards property tax up to 4th quarter 2014-2015, as it has been shown in the calculation sheet today, shall not be included in the demand notice which will be issued in terms of the order passed by this Court today since such interest has been levied during pendency of this writ petition.

However, waiver of interest up to the extent of 50% as granted by this Court for paying the property tax up to 4th quarter 2014-2015 shall not create any precedence in future cases.

Though it is not an issue in the writ petition, since the calculation has been placed by the Municipality before this Court indicating the amount payable by the petitioner towards property tax from 1st quarter 2015-2016 till date, the Court grants leave to the petitioner to make a representation before the Administrator of Bally Municipality within fortnight from date seeking waiver of interest and surcharge as it has been levied. On receipt of such representation the Administrator shall take decision relating to calculation of the sum which is payable towards property tax from 1st quarter 2015-2016 till date within a period of 4 (four) weeks thereafter, if necessary, by granting opportunity of hearing to the petitioner and the final calculation to be made in this regard along with demand notice shall be communicated to the petitioner within 1 (one) week thereafter.

With the aforesaid directions, the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)