IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.4596 of 2020
and
W.M.P.Nos.5453, 5454 and 5456 of 2020

M/s.Kothari Industrial Corporation Limited,
Represented by its Factory Manager
D.Ravindra Reddy,
Kathivakkam Village,
Chennai - 600 057. ... Petitioner

Vs.

1.The Secretary to the State of Tamil Nadu,
Revenue and Land Administration,
Fort St. George, Secretariat,
Chennai.

2.The Commissioner of Corporation of Chennai,
Greater Chennai,
Rippon Buildings,
Chennai - 600 009.

3.The Zonal Officer,
Zone:1, Greater Chennai Corporation,
Chennai - 19.

4.The Assistant Revenue Officer,
Chennai, Zone:1, Tiruvottiyur,
Greater Chennai Corporation,
Chennai - 57. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the entire records of the fourth respondent Corporation, Chennai, Assistant Revenue Officer Zone 1 in his proceedings Che.Ma.Ah.Va.Tmn/special/2019-2020 dated 21.01.2020 in issuing Warrant Notice and the proceedings M.Aha.1.Na.Ka.No.R2/0759/2020 passed by the third respondent dated 05.02.2020 and quash the same and consequently forbearing the respondent Corporation from any further proceedings for petitioner's land in Survey Nos.241/1A1, 1B1, 243-1, 244, 31-1, 31-2, 37B, 30, 10-2A, 11-1, 11-3, 32-1A, 241-102, 241-1B/243-2, 242-1A, 261.5 at Kathivakkam Village, Tiruvallur District pursuant to the said notice.

For Petitioner : Mr.S.Sivaraman

For Respondents :
For R2 to R4 : Mr.Rahul Aditya
for Mrs.P.T.Ramadevi
Standing Counsel

ORDER

The petitioner has challenged Notice No.6/New Assessment Order, whereby, the petitioner has been called upon to pay vacant tax for the second half of Assessment Year 2013-2014 amounting to Rs.4,31,060/-.

2. In the said notice, the extent of the property has been shown as 14,36,855 sq.ft, which is approximately equivalent of 35.55 acres of land.

3. It appears that the petitioner had also sent a representation dated 30.01.2020, in response to the above Notice No.6, wherein, the petitioner has stated as follows:

> "This has reference to your Bill No.05822 for Rs.51,72,720/- towards payment of property tax for the vacant land at Ennore for the period from 1st half of 2013-14 to 1st half of 2019-2020. In this connection, we wish to inform that we are paying the Property tax for the Plant & Buildings at out factory, to your goodselves. For the vacant land, from the year 1983-84, we are remitting Urban Land Tax on annual basis to the Tahsildar, Kathivakkam Village, Madhavaram circle.
>
> Under the above circumstances, since we are already remitting the Urban Land Tax on annual basis to the Thasildar, Kathivakkam Village, Madvaram Circle from the year 1983-84, we object to your Demand to pay the Property Tax for vacant land and we hereby request your goodselves to defer all further proceedings from enforcing the demand to pay tax to the vacant land and thus oblige."

4. It is the specific case of the petitioner that the land in question is a vacant land, which is abutting the Coastal Regulation Zone (CRZ) and therefore, the land is incapable of being put to any other use and therefore, the Department namely the respondents herein were not entitled to levy the vacant land tax on the petitioner for the aforesaid land.

5. The learned counsel for the respondents on the other hand has drawn attention to Sections 99 and 100 of the Chennai City Municipal Corporation Act, 1919 (In short "the Act"), in support of the stand of the respondents. It is submitted that in terms of Section 99(3) of the Act, the annual value of the land or building shall be determined by the Commissioner.

6. It is submitted that in terms of Rule 3 of Part I-A to 4th Schedule to the Act, the Commissioner can assess the property tax having regard to the property tax payable by the owner or occupier which reference to the guide lines, if any, that may be issued to the Council.

7. It is submitted that the Council has passed Resolution No.405 of 2009 in Item No.59 dated 29.10.2009 and pursuant to the above, the vacant land tax has been demanded.

8. The learned counsel for the respondents has further drawn attention to Paragraph 7 of the affidavit filed in support of the writ petition, wherein, the petitioner has stated that after Tsunami in 2004, the building that was in existence was also demolished and that the land has been kept vacant.

9. That apart, it is submitted that the petitioner has an alternate remedy before the Taxation Appellate Tribunal (TAT) in terms of Schedule 4 to the Act and therefore, on this count also, this Writ Petition is liable to be dismissed.

10. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

11. There is no case made out for the relief sought for in the present writ petition under Article 226 of the Constitution of India. Therefore, the challenge to the impugned order/notice is without any merits. I am refraining from making any comments on the merits of the case, as I am inclined to dismiss the writ petition with liberty to challenge the impugned demand before the Taxation Appellate Tribunal (TAT) in accordance with Schedule 4 to the Chennai City Municipal Corporation Act, 1919, as any comment on merits may influence the Taxation Appellate Tribunal (TAT).

12. Thus, this Writ Petition is dismissed giving liberty to the petitioner to file a Statutory Appeal before the Taxation Appellate Tribunal (TAT) in accordance with Schedule 4 to the Chennai City Municipal Corporation Act, 1919, within a period of sixty days from the date of receipt of a copy of this order. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

10.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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C.SARAVANAN, J.

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