BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 10.01.2023

PRONOUNCED ON : 31.01.2023

CORAM

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) No.1755 of 2015
and
M.P.(MD) No.1 of 2015

Govel Trust,
through its President,
G.Srinivasan,
S/o.Govindappa Naicker,
Plot No.1, Annanagar,
Madurai – 20. ... Petitioner

/vs./

The Tahsildar,
Dindigul,
Dindigul District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, call for the records relating to the impugned demand notice dated 05.02.2015 by the respondent and quash the same as illegal.

For Petitioner : Mr.R.Ramadurai

For Respondent : Mr.G.Siva Raja
Government Advocate

ORDER

The writ petition has been filed challenging the demand notice issued by the respondent dated 05.02.2015 calling upon the petitioner to pay the urban land tax to the tune of Rs.1,97,064/- for the Fasali years 1401 to 1417.

2.Heard Mr.R.Ramadurai, learned counsel for the petitioner and Mr.G.Sivaraja, learned Government Advocate for the respondent.

3.Mr.R.Ramadurai, learned counsel for the petitioner would submit that the petitioner is a non-beneficial organization running eye hospital in the name of Arvind Eye Hospital at various places in Tamil Nadu. He would further submit that the petitioner trust had purchased the property comprised in T.S.No.90/1, Ward No.1, Thadikombu Rastha, Dindigul Town under three separate registered sale deeds dated 11.03.2011 from the private persons. The petitioner trust after having acquired the property had been regularly paying the urban land tax from the Fasali year 1421 to 1424. Originally, the demand was made on 03.08.2012 by the respondent calling upon the petitioner to pay the urban land tax from the Fasali year 1421 and further demands were made for the subsequent Fasali years, which have also been paid by the petitioner. However, by the impugned demand notice dated 05.02.2015, the respondent had made a demand for the urban land tax from the Fasali years 1401 to 1417.

4.He would further submit that the petitioner had purchased the land in the year 2011, which correlates to the Fasali year 1421. From the date of purchase, the petitioner had been regularly paying the urban land tax and therefore, the demand raised by the respondent is without any authority. Hence, he sought to quash the demand notice issued by the respondent.

5.Countering his arguments, Mr.G.Sivaraja, learned Government Advocate appearing on behalf of the respondent would submit that the urban land tax has not been paid in respect of the land, which has been purchased by the petitioner. He would rely upon Section 17 of the Tamil Nadu Urban Land Tax Act, 1966 *(herein after referred to as Act)* to contend that failure to pay the urban land tax will be a first charge on the urban land and therefore, since the petitioner is holding the urban land in issue, the respondent was right in issuing the demand notice on the petitioner. Hence, he would submit that there is no error in the order impugned in this writ petition.

6.I have considered the rival submissions made by the learned counsels appearing on either side.

7.It is an admitted case that the land in question falls within the urban agglomeration liable to be levied with the urban land tax. Relevant provisions of the Act to determine the issue involved in this writ petition is as follows:-

8.Section 14 of the Act reads as under:-

> *"**14.Notice of demand:-** (1) After the determination of the market demand. value and of the amount of the urban land tax under section 10 or 11, the Urban Land Tax Officer shall cause a notice of demand to be served on the assessee. Such notice shall specify the amount of the urban land tax payable by the assessee and shall contain such other particulars as may be prescribed.*
>
> *(2) The notice referred to in sub-section (1) shall call upon the assessee to pay within a period of fifteen days from the date of service of the notice the urban land tax specified in the notice.*

(3) Where the urban land tax payable by assessee is not paid before the expiry of the period specified in the notice, the urban land tax shall be recovered from the assessee as arrears of land revenue."

9.Section 17 of the Act reads as under:-

*"**17.Urban land tax to be the first charge on urban land:-** The urban land tax shall notwithstanding anything contained in any other charge on law for the time being in force made by the Legislature of the State], or any custom, usage or contract or decree or order of a court or other authority ? but subject to any tax or other amount due to the Central Government under any law in force be a first charge upon the urban land and upon the immovable property, on such urban land and belonging to the person liable to pay such tax."*

10.Section 19 of the Act reads as under:-

*"**19.Obligation of Transferor and transferee to give notice of transfer:-** (1) Whenever the title of any person Obligation primarily liable to the payment of urban land tax on Ff any urban land is transferred, the person whose title transferor is transferred and the person to whom the same is transferee transferred shall, within three months after the to give execution of the instrument of transfer or after its notice of registration, if it be registered, or after the transfer is transfer effected, if no instrument be executed, give notice of such transfer to the Urban Land Tax Officer.*

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred as heir or otherwise, shall give notice of such transfer to the Urban Land Tax Officer within one year from the death of the deceased.

(3) The notice to be given under this section shall be in such form as may be prescribed and the transferee or the person to whom the title passes, as the case may be, shall, if so required, be bound to produce before the Urban Land Tax Officer, any document evidencing such transfer or succession.

(4) Every person who makes a transfer as aforesaid, without giving such notice to the Urban Land Tax Officer shall (in addition to any other liability which he may incur through such neglect), continue liable for the payment of the urban land tax assessed on the urban land transferred, until he gives notice or until the transfer shall have been recorded in the revenue registers, but nothing in this section shall be held to affect the liability of the transferee for the payment of the said tax.

(5) Whenever there is change in the aggregate extent of urban land held by any owner in any urban area as a result of any transfer effected by inheritance, sale, purchase, gift, exchange, surrender, settlement or by any other manner whatsoever or as a result of partition-

(a) such owner shall furnish to the Assistant Commissioner having jurisdiction a return in respect of such urban land containing such particulars, within such time and in such manner, as may be prescribed, and the provisions of this Act shall, as far as may be, apply to such return as if it were areturn required to be furnished under section 7; and

(b) the Assistant Commissioner shall proceed to assess or re-assess such urban land for subsequent fasli years, after following such procedure as may be prescribed, and the provisions of this Act, shall, as far as may be, apply to such assessment or re-assessment. "

11.The petitioner is a transferee of the property. Section 19 of the Act deals with the obligation of transferor and transferee. When the title of property is transferred, then the person primarily liable to pay the tax and also the person, in whose name the title is transferred, shall within three months of such transfer intimate the Urban Land Tax Officer concerned by giving notice of such transfer. Section 19(4) of the Act deals with the liability of a person, who makes the transfer. It specifically states that the transferor will be liable for payment of urban land tax, until he gives notice or until the transfers have been recorded in the revenue register.

12.Here in this case, the petitioner is a transferee and it had given notice of transfer. Only on such notice, the respondent herein had demanded the urban land tax from the Fasali year 1421 that is the year, in which the petitioner had purchased the property. The petitioner had been regularly paying the demanded urban land tax. But however, there was a sudden demand for the period before the petitioner became the owner of the property on the ground that the urban land tax has not been paid.

13.As I have already analyzed the effect of Section 19(4) of the Act, I am of the view that the transferor is liable for payment of urban land tax, till he gives notice. This can also be extended to state that the authorities are put on notice of any transfer. Here, the petitioner being the transferee has put on notice the respondent of the transferor, upon which the demands have been raised in its name. Since Section 19(4) of the Act holds that the transferor liable till such notice, the impugned demand calling upon the transferee to pay, in my view, is in violation of Section 19(4) of the Act.

14.The reliance placed upon by the learned Government Advocate on Section 17 of the Act, in my view, will also not help the respondent. It is true that the urban land tax will be the first charge on the property. The said provision could only be applied when the owner of the urban land has failed to make the payment. Here, the present owner, namely the petitioner, is not in arrears of urban land tax. Since I already held that the original owner/transferor alone is liable to pay the urban land tax as per Section 19(4) of the Act, it is always open to the respondent to proceed against the transferor only. Section 14 of the Act prescribes that if an assessee had failed to make payment, such amount can be recovered as arrears of land revenue. When that be so, the respondent ought to have proceeded only against the transferor. In the light of the aforesaid discussion, I am of the view that the impugned order is in violation of Section 19(4) of the Act and hence, it is liable to be set aside.

15.In fine, the Writ Petition is allowed. The demand notice issued by the respondent dated 05.02.2015 is set aside. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

31.01.2023

Speaking : Yes / No
Internet : Yes / No
Index : Yes / No
NCC : Yes / No
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K.KUMARESH BABU, J.

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To

The Tahsildar,
Dindigul,
Dindigul District.

order made in
W.P.(MD) No.1755 of 2015

31.01.2023