BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD) No. 25593 of 2022
and W.M.P. (MD) Nos. 19679 of 2022 and 19680 of 2022

Central Warehousing Corporation,
(A Government of India Undertaking),
Represented by Regional Manager,
Central Warehouse,
1, Vallam Road, Thanjavur – 613 007. ... Petitioner

Vs.

The Commissioner,
Thanjavur Municipality,
Thanjavur. ... Respondent

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Certiorari, to call for records and quash the impugned demand notice issued by the respondent in Na.Ka. No. 7485/2022/MCA2 dated 15.09.2022 to the building of the Petitioner bearing property tax assessment number (OLD) 45009 and New Number 107/052/00711 as being arbitrary and against the principles of natural justice and law.

For Petitioner : Mr. D.Baskar

For Respondent : Mr. N.Dilipkumar, Standing Counsel

O R D E R

Heard Mr. D.Baskar, Learned Counsel for the Petitioner, Mr. N.Dilipkumar, Learned Standing Counsel, who takes notice for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, which is an undertaking of the Government of India, has two godowns complexes situated at Thanjavur within the territorial limits of Thanjavur Municipality and the levy of property tax for those buildings was earlier governed by the provisions of the the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), and after the formation of Thanjavur Municipal Corporation, the provisions of the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act XV of 1971) would be applicable in that regard.

3. The grievance ventilated by the Petitioner is that despite the specific

directions issued in the earlier litigation between the Petitioner and the Respondent while it was Thanjavur Municipality that the demand notices claiming that the property tax would have to be issued following the Rules, the Respondent has not provided any working-sheet showing the calculation as to how the amount has been arrived with reference to the relevant factors for making such assessment.

4. It is trite law that any administrative action which involves civil consequences must be made consistently with the rules of natural justice, meaning thereby that the person concerned must be informed of the case with supporting evidence against him and he must be given a fair opportunity to meet the case before an adverse decision is taken as held by the Hon'ble Supreme Court of India in ***State of Orissa -vs- Binapani Dei*** (AIR 1967 SC 1269). Such flaw in the decision-making process of the Respondent certainly vitiates the proceedings.

5. The result of the foregoing discussion is that the Writ Petition is disposed on the following terms:-

(i) the impugned order in Demand Notice dated 15.09.2022 in Na.Ka. No. 7485/2022/MCA2 passed by the Respondent is set aside, and the matter is remitted for fresh consideration for levy of property tax;

(ii) it shall be incumbent upon the Respondent to issue fresh demand notice for each year following the prescribed procedure for levy of property tax along with a working-sheet showing the calculation with specific details of the annual value for the land with measurement and cost of land and buildings, granting an opportunity of not less than 15 clear working days to the Petitioner to submit its objections, if any, for the same;

(iii) if any objections are raised by the Petitioner, the Respondent shall duly examine the same and if necessary, physical measurement of land and buildings shall be taken by an authorized engineer and/or surveyor of the Respondent in the presence of the Petitioner or its authorized representative, after due notice of such inspection;

(iv) if the Respondent requires any other details or supporting materials from the Petitioner for proper assessment of property tax, the same shall be intimated in writing to be furnished within a time frame of not less than 15 clear working days for the same;

(v) an enquiry shall be conducted thereafter affording full opportunity of personal hearing to the Petitioner to explain its position for determination of the proper amount of property tax to be levied;

(vi) a reasoned order shall be passed by the Respondent dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment;

(vii) if any adverse decision is taken, the Petitioner may pursue legal remedies in accordance with law;

(viii) consequently, the connected Miscellaneous Petitions are closed; and

(ix) there shall be no order as to costs.

28.02.2023

Index : Yes/No
Internet : Yes /No

SJ

Note : Issue copy of the order by 25.05.2023.

To

The Commissioner,
Thanjavur Municipality,
Thanjavur.

Copy to

The Regional Manager,
Central Warehousing Corporation,
(A Government of India Undertaking)
1, Vallam Road, Thanjavur – 613 007.

P.D. AUDIKESAVALU, J.

SJ

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