IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5965 of 2024
& W.M.P.No.6625 of 2024

Ideal Educational Trust,
Rep by its Secretary,
K.Sivalingam,
Ideal Nagar,
Paruvachi Village,
A-Sembulichampalayam Post,
Bhavani Taluk,
Erode District 638 501.

... Petitioner

Vs.

1.The District Collector,
Erode District.

2.The Block Development Officer,
Bhavani Block, Erode District.

3.The President,
Paruvachi Village,
Bhavani Taluk,
Erode District.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to impugned notice dated 07.12.2023 issued by the 3rd respondent vide Ka.No.3/2023/Paruvachi Panchayat and the impugned order dated 29.01.2024 issued by the 2nd respondent vide Na.Ka.No.Aa.1/3597/2022 and quash the same with consequential direction to the respondents to give appropriate remission in the terms of Rule 19 of the Tamil Nadu Village Panchayat (Assessment and Collection of Taxes) Rules, 1999, pertaining to the buildings of the petitioner Society bearing Door Nos.6/432, 6/433, 6/434A, 6/434B, 6/434C, 6/434D, 6/434E, 6/434F, 6/434G, 6/434H, 6/435, 6/436, 6/436A, 6/436B, 6/436C, 6/436D, 6/436E, 6/436F, 6/436G, 6/436H, 6/436I, 6/436J, 6/437, 6/437A and 6/437B in respect of financial years 2020-21, 2021-22, 2022-23 and 2023-24 by considering the petitioner's representation dated 05.01.2024 sent to the respondents 2 and 3.

For Petitioner	:	Mr.L.P.Shanmugasundaram, for Mr.S.Senthil
For Respondent	:	Mr.P.Balathandayutham, Special Government Pleader, for R1 Mr.C.Harsha Raj, Additional Government Pleader, for R2 and R3

ORDER

This writ petition has been filed challenging the impugned notice dated 07.12.2023 and the impugned order dated 29.01.2024.

2. The learned counsel for the petitioner would submit that the petitioner gave a representation dated 05.01.2024 to the respondents for the remission of property tax since they have decided to close down the school due to the poor strength. After taking into the consideration of the said representation, the impugned order came to be passed by the 2nd respondent, however, no concession in the property tax was provided for the Covid period as requested by the petitioner. Aggrieved over the said order, this petition has been filed.

3. Further, he would submit that the petitioner is willing to deposit a portion of the tax libaility and hence, he requested this Court to set aside the impugned order passed by the respondents.

4. On the other hand, the learned Special Government Pleader and the learned Additional Government Pleader appearing for the respondents would submit that as per the provisions of Rule 19 of the Tamil Nadu Village Panchayat (Assessment and Collection of Taxes) Rules, 1999, (hereinafter called as "the Rules"), upon receipt of any representation from the Assessee with regard to the vacancy of building, certainly, the same has to be considered while assessing the property tax. However, in the representation dated 05.01.2024, the petitioner had not asked for remission of the property tax for any specific period based on the vacancy of the building. Under these circumstances, the impugned order came to be passed by the respondents. Hence, he requests this Court to pass appropriate orders by directing the petitioner to file a fresh representation.

5. In reply, the learned counsel for the petitioner would submit that the petitioner will give a fresh representation within a period of two weeks with regard to the remission of property tax, based on the vacancy of the building, for the specific period and hence, he requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader and the learned Special Government Pleader for the respondents and also perused the materials available on record.

7. In the present case, the petitioner had given a representation dated 05.01.2024 for the remission of property tax since they had decided to close down the school due to poor admission. Further, the petitioner had also seeks remission of property tax for a specific period on the ground that the building was vacant during the Covid period due to the lock-down imposed by the Government. However, while passing the impugned order dated 29.01.2024, the respondents had neither considered the representation made by the petitioner nor provided any concession in the property tax, which is contrary to the provisions of Rule 19 of the said Rules, which reads as follows:

*"**19. Vacancy remission.***

(1) When any house or a portion of a house has been vacant for ninety or more consecutive days in a half-year

or one hundred and eighty or more consecutive days in a year, the executive authority shall, on demand by the assessee, remit so much, not exceeding two-thirds of the amount of the tax, as is proportionate to the number of days during which the house was vacant in the half-year or year.

(2) Every demand for remission under sub-rule (1) shall be made during the half-year or year in respect of which the remission is sought or in the following half-year or year and not afterwards.

(3)(a) No demand for such remission shall be entertained unless the owner of the house or his agent has previously given notice to the executive authority, the house is vacant and the period in respect of which the remission is made shall be calculated from the date of delivery of such notice.

(b) Every such notice shall expire in a half-year or year during which it is so delivered and shall take no effect thereafter."

8. A perusal of the above provision would show that if any building is vacant, the Authority concerned shall consider the same upon

the receipt of application/representation from the Assesee and provide the remission of property tax not exceeding 2/3rd of the total tax liabilities.

9. In the present case, there is no dispute with regard to the aspect that there was a complete lock-down during the Covid 19 pandemic, due to which the petitioner-school was closed. When such being the case, the said school building has to be considered as a vacant building during the said period, in which case, the respondents are supposed to have provided the remission of property tax, not exceeding 2/3rd of the total tax amount. However, no such remission was granted in the impugned order passed by the respondents.

10. Further, in the representation dated 05.01.2024, the petitioner made a specific request for remission of property tax during the covid period and also produced an intimation with regard to the closure of school with effect from 01.06.2022 due to poor admission, however, without considering the same, the impugned order was passed in a mechanical manner, which is violation of principles of natural justice. Therefore, this Court is inclined to set aside the impugned order passed

by the respondents dated 29.01.2024. Accordingly, this Court passes the following order.

i)The impugned order dated 29.01.2024 is set aside on condition that the petitioner shall pay a sum of Rs.8,00,000/- to the respondents within a period of four weeks the date of receipt of copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

ii) Further, the petitioner is directed to file a fresh representation within a period of one week thereafter.

iii) The respondents are directed to dispose of the said representation within a period of 4 weeks from the date of filing of representation by the petitioner. While disposing of the said representation, the concerned respondent shall consider the aspect with regard to the vacancy of school due to the Covid pandemic and closure of school due to poor admission and provide remission of property tax in accordance with law.

11. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is also closed.

28.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

1.The District Collector,
Erode District.

2.The Block Development Officer,
Bhavani Block, Erode District.

3.The President,
Paruvachi Village,
Bhavani Taluk,
Erode District.

KRISHNAN RAMASAMY.J.,

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