IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.35203 of 2013

M/s.Elvee Auto Enterprises
Represented By Its Partner V.Muralidharan,
Dealer Of Indian Oil Corporation Ltd.,
474/2, Trichy Road, Singanallur, Coimbatore-641 005. ... Petitioner

-Vs-

1. The Assistant Commissioner,
   Coimbatore Corporation-East Zone,
   Singanallur, Coimbatore-641 005.

2. Indian Oil Corporation Ltd.,
   having its Corporate Office
   at 3079/3,
   J B Tito Marg,
   Sadiq Nagar, New Delhi-110 049,
   & having Its State Office
   at Indian Oil Bhavan, 139, Mahatma Gandhi Road,
   Chennai-600 034. ... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the first respondent vide order dated 13.11.2013 in Na.Ka.No.14153/2013/Ki A and to quash the same.

For Petitioner	: Mr.B.Ravi Raja
For R1	: Mr.K.Magesh
For R2	: Mr.M.Vijayamehanathan

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 13.11.2013, thereby rejected the request made by the petitioner not to assess property tax for the canopy which has been put up by the petitioner attached with the R.C.C building.

2. Heard both sides and perused the materials available on record.

3. The petitioner is a dealer in the business of retail outlet of petrol, diesel and its allied products of the second respondent. The petitioner had put up a multi service station including retail of petrol and diesel. As directed by the second respondent, the petitioner had put up a pucca building, overhead shelter (canopy) be provided for the safety of the consumers. While being so, the first respondent issued notice dated 24.09.2013 to the petitioner, thereby proposed to levy property tax in respect of the premises and it also annexed calculation memo.

4. As per the calculation memo, the building has been measured including the canopy area ad-measuring 3077 sq.ft along with RCC building. Therefore, the petitioner submitted a representation to delete the area of canopy

from the assessment of property tax. It was rejected on the ground that the canopy area is not temporary in nature, it was made permanently. It is under use of petrol bunk.

5. The learned counsel for the petitioner would submit that the canopy is only temporary in nature and it is not even required by the petitioner. It was put up only on the instruction given by the second respondent. Those days, the petrol bunks were running without any roof. Therefore, the canopy area of the petrol bunk cannot be included to assess the property tax.

6. Admittedly, the petitioner is a dealer in the business of retail outlet of petrol, diesel and its allied products of the second respondent. As per the conditions, the petitioner has to put up a canopy to set up a petrol bunk adjacent to the RCC building. Accordingly, the petitioner had put up a canopy to an extent of 2277 sq.ft along with 800 sq.ft of RCC building. The canopy area cannot be separated from the RCC building, since without canopy area, the petrol pump cannot be operated to general public. Only in the roof, the petrol pump can be operated and accordingly, the second respondent had instructed the petitioner to put up a canopy area along with RCC building. Further, it is not a temporary structure and it is a permanent structure annexed with the RCC

building. Temporary structure means, it can be removed within a short period. The canopy put up by the petitioner is permanent in nature and it covers the petrol pump permanently.

7. Therefore, the representation submitted by the petitioner was rightly rejected by the first respondent and this Court finds no infirmity or illegality in the order passed by the first respondent and the writ petition is devoid of merits and is liable to be dismissed.

8. However, it is a sorry state of affairs that the first respondent did not even raise any demand of property tax for the past 13 years for the petitioner's property. The order impugned in this writ petition has nothing to do with the demand of property tax. Therefore, the first respondent is directed to take appropriate steps to collect the property tax from the petitioner in accordance with law, forthwith.

9. In view of the above, this writ petition is dismissed. There shall be no order as to costs.

21.08.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
mn

G.K.ILANTHIRAIYAN. J,

mn

To

1. The Assistant Commissioner,
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