IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.24676 of 2021
and
W.M.P.No.25972 of 2021

The Rising Sun of India Lodge,
Represented by its Secretary
Mrs.V.Vedavathi ... Petitioner

Vs.

1.The Government of Revenue and Disaster Management Department,
Land Disposal Wing,
Represented by its Secretary,
Government of Tamil Nadu,
Revenue Department, Fort St. George,
Chennai – 600 009.

2.The Additional Chief Secretary/Commissioner of Land Reforms,
Ezhilagam, Chepauk,
Chennai – 600 005.

3.The Assistant Commissioner,
Urban Land Tax,
Mylapore, Chennai – 600 004.

4.The Special Tahsildhar,
Urban Land Tax,
Velachery Taluk,
Chennai – 600 113. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent dated 10.02.2020 in Rc.No.B3/6983/2019 and quash the same and further direct the first respondent to exempt the petitioner's lands from payment of Urban Land Tax under Section 27 of the Tamil Nadu Urban Land Tax Act, 1966.

For Petitioner : Mr.V.Ramesh
for Mr.T.Thiyagarajan

For Respondents : Mr.P.Balathandayutham
Special Government Pleader

ORDER

The petitioner has filed this writ petition challenging the impugned order dated 10.02.2020 passed by the Additional Chief Secretary/Commissioner of Land Reforms, Ezhilagam, Chepauk, Chennai the second respondent herein. Relevant portion of the impugned order reads as under:-

“2. The petitioner's representation dated 23.04.2007 filed before the Principal Commissioner and Commissioner of Land Reforms u/s 27 of the Tamil Nadu Urban Land Tax Act, 1966, Amendment Act, 1991 was received on 27.04.2007 wherein the petitioner has submitted as follows:

i. *The Rising Sun of India is a Co-Masonic lodge affiliated to the Indian Administration, Eastern order of International Co-Freemasonry.*

ii. *The petitioner is a religious and charitable and philanthropic organization governed by-laws.*

iii. *The petitioner is engaged in religious, spiritual preachings advanced by great scholars and noted religious leaders.*

iv. *The petitioner conducts meetings, lectures which are organized for the general benefit of the public to advance the spirit of moral and intellectual values in lives.*

v. *It is registered as S.No.62 of 1975 under the Societies Registration Act, XXI of 1860 and is also registered under Section 12 AA of the Income Tax Act, 1969.*

vi. *The petitioner owns 20 grounds of land in Adyar, Chennai which was gifted by Late Mr.Ve.Seshachariar by gift deed dated 14th March 1910 in favour of Late Dr.Annie Besant, as a Trustee of the Rising Sun of India – Lodge.*

vii. *The petitioner had an average of a meager income of around Rs.11,097/- and expenditure of about Rs.7,314/- for the year 2006.*

viii. *The petitioner seeks exemption of Urban Land Tax under the Tamil Nadu Urban Land Tax Act, 1966 for lands held by it as it faces undue hardship with meager income.*

> *ix. Neither the petitioner nor the parent body derive any benefit or profit from the property.*
>
> *x. The petitioner spends around 90% of its income, and does not spend more than 40% towards its employees. Further out of its gross income except for the essential expenditure its savings are not even 25% of the balance of income.*

3. Perusal of the relevant records submitted before me, including Urban Land Tax Department's File R.Dis.11651/1993, reveals that in their application dated 31.05.1993 filed before the Commissioner and Secretary to the Government of Tamil Nadu, ***the petitioner had made similar request for an exemption request u/s 27 of the Tamil Nadu Urban Land Tax Act, 1966 on the ground of 'undue hardship'****. The petitioner's request was placed before the Empowered Committee on 18.10.1994 and the Committee had recommended grant of exemption.* ***However, after due diligence, the Government, vide G.O.(D) No.257, Revenue (ULC.5(1)) Department, dated 17.06.1998 had rejected the request of the petitioner on the ground that the petitioner did not satisfy four norms out of the five prescribed in G.O.Ms.No.1834, Revenue, dated 29.10.1983****.*

4. In the afore-stated circumstances, since the request of the petitioner for exemption has already been examined and disallowed by the Government, in the opinion of the undersigned he is not competent to review the order passed by an authority superior to him. Relevantly, the government's order G.O.(D) No.257, Revenue (ULC.5(1)) Department, dated 17.06.1998 has not been assailed by the petitioner and the same remains in force. Representation of the petitioner dated 23.04.2007 thus stands disposed."

2. The impugned order dated 10.02.2020 precedes an inquiry notice dated 28.01.2020, which in turn precedes the order passed by this Court on 02.07.2019 in W.P.No.15999 of 2007 wherein, the petitioner had challenged the earlier order passed by the Special Commissioner and Commissioner of Land Reforms first respondent therein in his proceedings dated 20.04.2006 bearing Ref.R.C.No.19952/2004(B3). The said writ petition was disposed on the limited ground with the following observations:-

> ***"4. In view of the limited request made by the learned counsel appearing for the petitioner as well as the learned Addl. Government Pleader, I am inclined to give a direction to the 1st respondent to consider the petitioner's representation dated 23.04.2007 for exemption of paying the urban land tax under Sec.19(k) of the Urban Land Tax Act. Till the disposal of the exemption application, the impugned notice shall be kept in abeyance.***
>
> ***5. With the above said observation, the present Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed."***

3. Learned counsel for the petitioner would draw attention to the Gift Deed executed by one Mr.V.C.Seshachariar as early as 14.03.1910 in favour of Late Mrs.Annie Besant. It is further submitted that all along the property was exempted from payment of urban land tax under the provisions of the Tamil

Nadu Urban Land Tax Act, 1966 (Amendment Act, 1991). However, the second respondent has passed the impugned order rejecting the request of the petitioner for grant of exemption from payment of the urban land tax under Section 27 of the aforesaid Act even though the Empowered Committee in its meeting held on 18.10.1994 had recommended that the petitioner be granted exemption.

4. Learned Special Government Pleader for the respondents on the other hand would submit that the petitioner had earlier approached this Court in W.P.No.2460 of 1993 and an order came to be passed on 10.02.1993 wherein, this Court had directed the Government to dispose the exemption application filed under Section 27 of the Tamil Nadu Urban Land Tax Act, 1966 and the matter was placed before the Empowered Committee on 18.10.1994, in which the committee recommended for grant of exemption. However, after due examination and with regard to G.O.(Ms)No.1834, Revenue Department dated 29.10.1983, the Government, as per G.O.(D)No.257, Revenue (ULC.5(1)) Department dated 17.06.1998, had rejected the request for exemption on the ground that the petitioner was not registered under Section 12AA of the Income Tax Act, 1961.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

6. I have also perused the G.O.(D)No.257, Revenue (ULC.5(1)) Department dated 17.06.1998, which stipulates the following conditions for grant of exemption as per G.O.(Ms)No.1834, Revenue Department dated 29.10.1983:

(1) The organization should be registered under Section 12AA of the Income Tax Act, 1961.
(2) The organization should be a Trust.
(3) The organization has to spend 90% of its gross income.
(4) The organization should not spend more than 40 to its employees.
(5) Out of the gross income of the organization, except the essential expenditure, the savings should not be more than 25% of the balance of income.

7. *Prima facie*, the documents that have been filed before this Court indicates that the petitioner indeed satisfies all the criteria in G.O.(Ms) No.1834, Revenue Department dated 29.10.1983 and in G.O.(D)No.257, Revenue (ULC.5(1)) Department dated 17.06.1998.

8. Since the impugned order does not give clear reasons as to why the request of the petitioner was being rejected, is not sustainable. It has to be held that the impugned order is arbitrary.

9. Therefore, the impugned order dated 10.02.2020 passed by the second respondent is set aside and the matter is remitted back to the first respondent to pass fresh orders on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order. In case exemption is to be denied to the petitioner, it has to be backed with proper reasons.

10. Therefore, it is needless to state, the petitioner shall be heard after giving notice to the petitioner, if so desired by the petitioner.

11. This Writ Petition is allowed with the above observations. No costs. Connected Writ Miscellaneous Petition is closed.

22.08.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To

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Management Department,
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Revenue Department, Fort St. George,
Chennai – 600 009.

2.The Additional Chief Secretary/Commissioner
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Chennai – 600 113.

C.SARAVANAN, J.

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