IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM

THE HONOURABLE MR. JUSTICE P.DHANABAL

C.R.P. No. 99 of 2022

K.Palaniappan
S/o. Kuppanchettiar ... Petitioner/Appellant/Petitioner

Vs.

The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore. ... Respondent/Respondent/Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, 1950, to set aside the order dated 28.10.2020 passed in C.M.A. No. 14 of 2018 on the file of V Additional District and Sessions Court at Coimbatore, confirmed order passed in Taxation Appellate Tribunal in No. 25 of 2009/C dated 24.04.2018 at Coimbatore.

For Petitioner : Mr. B.Nedunzhelian

For Respondent : Mr. K.Magesh

O R D E R

This Civil Revision Petition has been preferred as against the order dated 28.10.2020 passed in C.M.A. No. 14 of 2018 on the file of the V Additional District and Sessions Judge, Coimbatore, wherein, the petitioner herein has filed the Civil Miscellaneous Appeal challenging the order 24.04.2018 in T.A.T.No. 25/2009 passed by the Taxation Appellate Tribunal (Subordinate Judge/Chairman) of Coimbatore Corporation in property tax Assesment No. 240820 and the same was dismissed.

2. The case of the petitioner is that he is the owner of the property situated in Ward No. 38, Door No. 355, Variety Hall Road, Coimbatore and running hotel business. The Coimbatore City Municipal Corporation Authorities have levied half year property tax for a sum of Rs. 1,49,036/- with effect from 01.04.2005 with penalty of Rs. 13,850/- with effect from 01.10.2004. Against which, he preferred an appeal under Rule 20(1) and 23 Schedule-II of Coimbatore City Municipal Corporation Act, 1981. The Appellate Authority has passed an order by confirming the assessment made by the authorities. Against which, the C.M.A. has been filed before the District Court and the District Court also dismissed the appeal. Against which, the present Civil Revision Petition is filed.

3. The learned counsel appearing for the petitioner would contend that the petitioner got approval for construction of building before the respondent in the year 2003 and thereafter, the construction was completed in the year

2008. But the respondent has levied tax for the vacant site. Therefore, he filed petition before the Taxation Appellate Tribunal, Corporation of Coimbatore failed to consider the said aspect. The order of the Taxation Appellate Tribunal was also appealed before the District Court in C.M.A. No. 14 of 2018. But the District Court also, without considering that the building was not constructed and without construction they levied tax, dismissed the appeal. Therefore, the order passed by the District Court is liable to be set aside.

4. The learned counsel appearing for the respondent would contend that the petitioner/appellant obtained permission for construction of the hotel and thereafter, he failed to comply the provisions under Section 127 of the Coimbatore City Municipal Corporation Act, 1981 for the every succeeded half a year for the purpose of availing remission. Therefore, he is not entitled for remission for the period from 01.04.2005 to 08.12.2008. Therefore, the District Court correctly dismissed the case of the appellant by applying correct proposition of law. Therefore, the present Civil Revision Petition is liable to be dismissed.

5. This Court heard both sides and perused the materials available on record.

6. The petitioner filed this Civil Revision Petition challenging the order passed in respect of assessing the tax for the period, which the building was not constructed. It is admitted fact that the petitioner got approval for the period of 2003 to 2005, but within that period the construction was not completed and it was completed only in the year 2008. After completion of two years i.e., approval period, the Corporation of Coimbatore levied tax from 01.04.2008 onwards. The petitioner has not informed to the respondent corporation about the non-completion of construction work in terms of the Coimbatore City Municipal Corporation Act, 1981.

7. Before the Taxation Appellate Tribunal, Coimbatore, the appellant has produced Ex.P1 to P7 and on the side of the respondent, Ex.R1 was marked. After considering the above said documents, the Taxation Appellate Tribunal dismissed the petition on the ground that the appellant got building approval to put up construction in the year 2003 till 15.07.2005. Exemption from paying tax given for 2 years i.e., 2003 to 2005 and then issued notice to pay a sum of Rs. 1,49,036/- with effect from 01.04.2005, therefore, the act of the authorities is correct in law. The District Court also in the order observed that as per the Ex.P3/tax receipts, the appellant has paid the revised tax of Rs. 1,49,036/- and penalty of Rs. 13,850/- for the periods 2004-2005(II), 2005-

2006(I) and 2005-2006(II) on 04.10.2006, a month after the issuance of Ex.P1 special notice for revision. The appeal before the Tribunal as against the revision of tax is preferred with a delay of 770 days on 23.12.2008. There is no material produced by the appellant to show that he has given any notice to the respondent under Section 127 of the Act, intimating that the building remained vacant during the half years between 2005 and 2008. Therefore, the petitioner already paid the amount and he has not followed the procedures contemplated under the Act. Therefore, the District Court also dismissed the appeal by confirming the order of the Tax Appellate Tribunal, Corporation of Coimbatore after elaborate discussion. Therefore, the order of the District Court is proper and it does not warrant interference. However, the appellant is at liberty to approach the respondent for one time settlement and the respondent shall consider the same in accordance with law.

8. With the above said observations, the Civil Revision Petition is dismissed. No costs.

25.07.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
pal

P.DHANABAL, J.,

pal

To

The V Additional District and Sessions Court at Coimbatore.

C.R.P. No. 99 of 2022

25.07.2024