BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2024

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THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD).No.10468 of 2022
and
W.M.P.(MD).Nos.7551 & 7552 of 2022

M/s. Narmadha Industries,
Represented by its Proprietor,
S.Gowri ...Petitioner

Vs

1.The Corporation Commissioner,
Thoothukudi Corporation,
Thoothukudi.

2.The Managing Director,
19A, SIPCOT,
Rukmani Lakshmipathi Road,
Egmore,
Chennai. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the special notice dated 02.05.2022 made in Na.Ka.No.141/2022/A1/May/Ma and demand notice dated 03.05.2022 issued by the first respondent and quash the same as illegal and consequently direct the first respondent to assess property tax as per

G.O. memo No.1619 of R.D.A.L dated 06.07.1974 by considering the petitioner's representation dated 10.05.2022 within a period that may be stipulated by this Court.

For Petitioner	:	Mr.R.Gandhi Senior Counsel For Mr.J.Karthikeyan
For Respondents	:	Mr.N.Ananda Kumar for R1 Mr.M.Gangatharan for R2

ORDER

Heard Mr.R.Gandhi, learned Senior Counsel for Mr.J.Karthikeyan, Mr.N.Anandakumar, learned counsel for the 1st respondent and Mr.M.Gangatharan, learned counsel for the 2nd respondent.

2. This Writ Petition has been filed challenging the demand made by the first respondent under the head "vacant land tax".

3. It is the case of the petitioner that the property was allotted by the second respondent for establishing an industrial unit and that the petitioner had established the said industrial unit as early as the year 1993. The said property was also assessed by the erstwhile Panchayat.

The first respondent Corporation came into existence on 05.08.2008. On the date when the first respondent Corporation came into existence, the petitioner had already established the industrial unit on the land allotted by the second respondent. However, when the petitioner approached the first respondent for assessment of the property for tax, he was called upon to file an application first to levy the vacant land tax and thereafter for assessment of the building. Even though the petitioner had submitted an application, and an assessment order was subsequently made, the petitioner was informed that, since he had established a unit as early as 1993, there was no liability for payment of vacant land tax. Therefore, the petitioner has filed the present writ petition to quash the demand for vacant land tax and to direct the first respondent to assess the property tax for the building in accordance with Government Order in G.O.Ms.No.1619, Rural Development and Local Administration Department, dated 06.07.1974, to which the petitioner had also made a representation.

4. Countering his arguments, the learned counsel appearing for the first respondent submitted that, since the property had not been assessed

to property tax, the period prior to the application could only be treated as vacant land, and the petitioner is liable to pay vacant land tax. The property would be assessed only from the date of application. He would further submit that the Government Order in question is no longer applicable, as the same had been eclipsed in respect of Municipal Corporation which was especially governed by the Tamil Nadu Municipal Corporation Laws and the first respondent Corporation was established in the year 2008 and the provisions of Coimbatore City Corporation Act is applicable. Therefore, he requests the Court to dismiss the Writ Petition, as the petitioner's case is not covered by the said Government Order.

5. The learned counsel appearing for the second respondent would submit that pursuant to the allotment of land, the petitioner had established an industrial unit as early as 1993, and assured that appropriate orders would be passed in that regard.

6. I have considered the submissions made on either side and perused the materials available on record.

7. Admittedly, the petitioner had constructed a building on the land allotted by the second respondent as early as 1993. In this scenario, the question of levying vacant land tax does not arise, as the land is no longer vacant. Vacant land tax is levied on lands that are kept vacant by their owners, and therefore, it cannot be applied in this case. It is also useful refer to the judgment of this Court in the case of ***S.Jayanthi & others vs The Pallavaram Municipality, Rep., by its Commissioner & others*** reported in ***2016 0 Supreme (Mad) 2800***, wherein the Hon'ble Division Bench of this Court has held that when a building had already been put up, a vacant land tax cannot be demanded for the subsequent years and had set aside the demand made against the petitioner therein. In the present case also, the petitioner had admittedly put up the constructions as early as in the year 1993 and even an additional building construction has been approved as early as in the year 1999 at Meelavittan Panchayat which is also evidenced from the said planning permission given by the Panchayat on 15.05.1999.

8. In light of the above, the impugned demand for vacant land tax made against the petitioner is liable to be set aside. It is open to the respondents to assess the petitioner's property in accordance with the law, following the due procedures and affording the petitioner an opportunity to be heard.

9. In fine, the Writ Petition is allowed and the impugned orders dated 02.05.2022 and 03.05.2022 are set aside. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

16.12.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

1.The Corporation Commissioner,
Thoothukudi Corporation,
Thoothukudi.

2.The Managing Director,
19A, SIPCOT,
Rukmani Lakshmipathi Road,
Egmore,
Chennai.

K.KUMARESH BABU, J.

Nsr

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