(2017) 03 AP CK 0029

In the Andhra Pradesh High Court

Case No : 8281 of 2012

Mohammed Ibrahim Abrar APPELLANT

Vs

Secunderabad Cantonment Board RESPONDENT

Date of Decision : 30-03-2017

Acts Referred:

Citation : (2017) 03 AP CK 0029

Hon'ble Judges : V.Ramasubramanian, J. Uma Devi

Bench : DIVISON BENCH

Advocate : Mohammed Imran Khan, K.R. Koteswara Rao

Judgement

1. The petitioner, who claims to be the owner of the property and who admittedly pays property tax to the Secunderabad Cantonment Board, has come up with the present writ petition challenging a notice dated 22.02.2012 issued by the Cantonment Board for the triennial revision of assessment.

2. Heard Mr. Mohammed Imran Khan, learned counsel for the petitioner and Mr. K.R. Koteswara Rao, learned counsel appearing for the respondent.

3. Though the impugned notice is challenged on several grounds, we are of the considered view that in respect of one of the grounds raised by the petitioner, the issue is covered by the decision of this Court. The issue covered by an earlier decision of this Court is as to whether there can be a retrospective revision of assessment.

4. In the case on hand, the impugned show cause notice is dated 22.02.2012. By this notice, the tax is sought to be revised for the triennial period from 01.04.2009 to 31.03.2012. This is sought to be done by the respondents on the ground that during the currency of the period of revision, viz., 01.04.2009 to 31.03.2012, a notice for revision can be issued at any time, beginning from the first day of the period and ending with the last day.

5. But unfortunately for the respondents, a Division Bench of this Court held in

its judgment dated 06.02.2012 in W.P.No.10050 of 2012 batch of cases, reported in Nazneen P. Bapooji v. The Chief Executive Officer, Secunderabad Cantonment Board, Secunderabad that such a revision would tantamount to a retrospective revision. To be precise the show cause notices dated 22.02.2012, 27.06.2012 and 09.12.2012 seeking to revise the assessment for the period 01.04.2009 to 31.03.2012 were under challenge in those writ petitions. A bench of this Court held that the same is not permissible in law.

6. The 1st respondent took the matter on appeal to the Supreme Court in S.L.P. (Civil).Nos.12163 to 12168 of 2013. Two issues were raised by the 1st respondent before the Supreme Court. One was with respect to the power of the Chief Executive Officer of the Cantonment Board and the other was with respect to the jurisdiction to revise the assessment for the period anterior to the show cause notice.

7. Before the Supreme Court, the learned Solicitor General considered the position with regard to the second issue. Therefore, the Supreme Court passed the following order: " Heard Mr. Mohan Prasaran, Learned Solicitor General for the petitioners. The question as to whether the Chief Executive Officer is competent to amend the assessment of property tax under the Cantonment Act, 2006 is kept open. However, there is a ground for any interference in the impugned order as learned Solicitor General fairly concedes that the triennial revision of the property tax could not have been made for the assessment years anterior to the show cause notice(s). Special leave petitions are accordingly dismissed. "

8. In view of the above, it is clear that there cannot be a revision of assessment, for a period anterior to the date of show cause notice. Hence the writ petition deserves to be allowed. Accordingly it is allowed. If any amount has been deposited by the petitioner pursuant to the interim orders, the same shall either be adjusted against the tax payable for the subsequent period or refunded to the petitioner as the case may be. This order will not preclude the respondents from passing any order for the period posterior to the impugned show cause notice.

9. As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

