(2024) 01 KL CK 0175

In the High Court Of Kerala

Case No : Writ Petition (C) No. 625 Of 2022

Paray Village Country APPELLANT

Vs

State Of Kerala RESPONDENT

Date of Decision : 23-01-2024

Acts Referred:

Citation : (2024) 01 KL CK 0175

Hon'ble Judges : Dinesh Kumar Singh, J

Bench : Single Bench

Advocate : Saiby Jose Kidangoor, P.M.Mohammed Salih, Anoop Sebastian, Pramitha Augustine, Irine Mathew, Adithya Kiran V.E, Anjali Nair, Nirmal.S,

Final Decision : Dismissed

Judgement

Dinesh Kumar Singh, J

1. The petitioner, a Company registered under the provisions of the Companies Act, runs a 4 star hotel at Kollengode. The said hotel is situated within the jurisdictional limit of the 2nd respondent Grama Panchayat.

2. According to the petitioner, the hotel in question remained closed as per the directions issued by the Central and State Governments because of Covid-19 Pandemic during the financial year 2020-21. On 23.3.2020, Government of India declared complete lock-down all over India and the petitioner had to close down the hotel during the said period, but one counter for effecting sale of liquor in bottles was opened in accordance with the State Government's notification.

3. The State Government issued notification No.746/2020/LSGD dated 8.4.2020 exempting the buildings, which were not functioning and remaining vacant during the pandemic period, from payment of property tax for the period of lock-down. The petitioner in pursuance to the notification dated 8.4.2020 issued by the State Government submitted an application dated 15.6.2020 before the 2nd respondent seeking necessary exemption from payment of tax for the period during which they had to close down their hotel due to the lock-down declared by

Government of India on 23.3.2020.

4. Another Government Order was issued by the Local Self Government Department being No.183/2021/LSGD dated 22.1.2021 providing facility for payment of property tax without any fine or interest. The petitioner had submitted representation seeking exemption from payment of property tax in respect of the said hotel before the 2nd respondent Panchayat. However, the said request was declined vide order dated 4.12.2021, Ext.P8, stating that the exemption from payment of property tax for the year 2020-21 cannot be granted to the petitioner. Ext.P4 series are the consequential demand notices issued against the petitioner by the 2nd respondent.

5. Learned counsel for the petitioner submitted that the petitioner's bar hotel remained closed in the year 2020-21 because of the lock-down declared by the Government of India on 23.3.2020 and the State Government vide notification No.GO(RT) 746/2020/LSGD dated 8.4.2020 directed that no property tax could have been levied for the lock-down period, and therefore, Ext.P8 order dated 4.12.2021 declining exemption from payment of property tax for the year 2020-21 to the petitioner's hotel, which remained closed for the said period, and consequential demand notices, Ext.P4, are illegal and are liable to be set aside.

6. On the other hand, Sri.Nirmal S., learned Standing Counsel for the Kollengode Grama Panchayat, submitted that the petitioner's application for exemption/ deduction from payment of property tax for the first half of the financial year 2021-22 was considered and property tax, including penalty and interest, was exempted for the said period. It is also said that on inspection, it was found that the petitioner's hotel did not remain closed continuously for 60 days or more during the financial year 2020-21 as per the report of the ward clerk. Therefore, the petitioner was not entitled for exemption/deduction from payment of property tax for the year 2020-21. For the first half of the year 2021-22, the petitioner was already granted exemption.

7. Learned counsel for the petitioner submits that because of the fact that one counter of the petitioner's hotel was opened during the lock-down period for effecting parcel sale of liquor in bottles as provided by the Authorities, it was concluded that the petitioner's hotel did not remain closed continuously for sixty (60) days. In fact, State Government permitted the petitioner and others like of the petitioner to effect parcel sale of liquor in bottles by issuing Government Order dated 18.5.2020 by opening one counter, but the hotels were not permitted to run. Therefore, when one counter was functioning as mentioned in the Government Order dated 18.5.2020 for effecting parcel sale as above, it cannot be concluded that the petitioner's hotel was functioning during the period.

8. Considering the aforesaid, I am of the view that let the petitioner be permitted to move a fresh representation before the 2nd respondent for its consideration, after taking into account the Government Order dated 18.5.2020. The petitioner should file necessary representation within a period of ten (10) days from today.

While considering the representation of the petitioner seeking exemption from payment of property tax for the year 2020-21 to be filed as above, the 2nd respondent Panchayat will consider the notification/Government Order dated 18.5.2020, which permitted the bar attached hotels to effect parcel sale of liquor in bottles during the pandemic period.

With the aforesaid observations and directions, the present writ petition stands finally disposed of. Pending interlocutory application, if any, in the present writ petition stands dismissed.

