(2011) 12 MAD CK 0212

In the Madras High Court

Case No : Writ Petition (MD) No. 5136 of 2009

P.T. Krishamoorthy, T. Ramamoorthy, T. Sathyamoorthy and T. Sundaramoorthy — APPELLANT

Vs

The Commissioner of Municipal Administration, Chepauk, Chennai-600005, The Commissioner, Corporation of Madurai, Anna Maligai, Madurai-625002 — RESPONDENT

Date of Decision : 07-12-2011

Acts Referred:

Constitution of India, 1950 — Article 265
Madurai City Municipal Corporation Act, 1971 — Section 120, 121, 122, 123

Citation : (2011) 12 MAD CK 0212

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : S. Subbiah in W.P. MD No. 5136 of 2009 and Mr. S. Subbiah in Contempt Petition MDNo.558 of 2009, for the Appellant; M. Govindan Special Government Pleader for Respondent No. 1 and Mr. J. Gunaseelan Muthiah in W.P. (MD) No. 5136 of 2009 and Mr. J. Gunaseelan Muthiah in Contempt Petition (MD)No.558 of 2009, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice K. Chandru

1. The petitioners are running a Chemical Small Scale Industry having its factory at Vengalakadai Street, Madurai-1. In this Writ Petition, the challenge made by the petitioners is to the demand notice issued by the respondent Corporation in revising the property tax. It was informed to the petitioners by Resolution No.338, dated 28.03.2008 and Resolution No.463, dated 27.06.2008 that the tax for half year has been increased to 150%. The tax paid by the petitioners for six months was Rs.12,071/- and, therefore, the petitioners were directed to pay the revised tax by intimation given due to the general revision made with effect from 01.04.2008. The petitioners, challenging the demand notice, filed the present Writ Petition and seek to set aside the same.

2. According to the petitioners, if 150% revision is made, they will be bound to pay Rs.30,178/- for half year with effect from 01.04.2008. The Writ Petition was admitted on 23.06.2009. Pending the Writ Petition, this Court granted an order of interim stay on condition that the petitioners should pay 50% of the tax demanded within four weeks. Though the application for interim direction seeking for assessment on the basis of the revised guideline in terms of the Act has been filed, no orders have been passed.

3. The Learned Counsel for the petitioners states that the petitioners are complying with the interim orders passed by this Court. The principal ground raised by the petitioners was that levy of 150% tax revision was illegal and contrary to Article 265 of the Constitution of India r/w Sections 120 to 123 of the Madurai City Municipal Corporation Act, 1971. It is also stated that the respondents have failed to follow the due procedure and it is exorbitant.

4. On notice from this Court, the respondent Corporation has filed a counter-affidavit dated-Nil (September, 2010). In the counter-affidavit, it is stated that though the Corporation initially decided to go for a general revision, pursuant to the order of the State Government made in G.O.Ms.No.110, Municipal Administration and Water Supply Department, dated 23.06.2008, the Corporation had passed Resolution No.584/2008 and re-fixed the earlier proposal. The earlier proposal, in respect of residential building, was 25% and for industrial and commercial building, it was 100% and 150% revision respectively. By resolution No.584/2008, it was revised to the effect that the residential premises will have 20% revision and different categories of buildings were set out. Insofar as the commercial sections are concerned, it was reduced to 100%. It was also stated that there has been no general revision from 01.10.1998 and the revision was made based on the nature of buildings. It is also stated that the existing tax of the petitioners was Rs.12,071/- and by the subsequent resolution of the Corporation, it was only brought to Rs.24,142/- .

5. It is further stated in the counter-affidavit that the petitioners were also aware of the Government Order in G.O.Ms.No.150, Municipal Administration and Water Supply (Elec.) Department, dated 12.11.2007, wherein the guidelines have been given for revision of property tax. The petitioners have neither chosen to challenge either the Government Order or the Municipal Resolution in revising the property tax. The reliance placed upon Section 120 of the Madurai City Municipal Corporation Act, 1971 is misnomer, because that relates to assessment of individuals, in the light of the guidelines fixed by the Corporation and hence, the petitioners cannot challenge the taxing power of the Corporation and the Corporation has taken note of all relevant circumstances including the decade of non revision of such taxes. The contention that this Court has power to go into the rate of tax in such circumstances on the basis of the averments made by the petitioners that it was exorbitant cannot be countenanced.

6. In view of the above, this Court finds that there is no case made out to entertain the present Writ Petition and hence, the Writ Petition will stand

dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

7. During the pendency of the Writ Petition, the same petitioners filed a Contempt Petition being Contempt Petition (MD)No.558 of 2009 seeking to punish the respondent for having allegedly disobeyed the order of this Court in M.P.(MD)No.3 of 2009 in W.P.(MD)No.5136 of 2009, dated 23.06.2009. The disobedience that was complained was that instead of giving a tax receipt as per the old norms by giving credit to the amount already paid, by virtue of the interim order, the authorities have adjusted the tax for the old arrears and it will amount to contempt of the orders passed by this Court. Since the main Writ Petition itself has been dismissed and also this Court is of the view that the interim order is not acceptable for such interpretation played by the petitioners, there is no case made out for punishing the respondent for any contempt. Hence, the Contempt Petition will also stand dismissed.

