Madurai District Central Co-operative Bank Limited Vs The Special Commissioner and Commissioner of Land Reforms, The District Revenue Officer, The Assistant Commissioner and The Urban Land Tax Officer

Court: Madras High Court (Madurai Bench)

Date of Decision: Aug. 11, 2011

Hon'ble Judges: Vinod K. Sharma, J

Bench: Single Bench

Advocate: S. Subbiah, for the Appellant; D. Muruganandam, Addl. Govt. Pleader, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Vinod K. Sharma, J.
The Petitioner being aggrieved by the order, passed by the Appellate Authority and Revisional Authority, in assessing

the tax under Urban Land Tax Act, has approached this Court, with a prayer for issuance of a Writ, in the nature of Certiorari, to quash the

impugned orders.

2. The Petitioner is a society registered under the Tamil Nadu Cooperative Societies Act, 1986. The Petitioner bank owns land bearing S. No.

334/1, to the extent of two grounds and 427 sq.fts, in S. No. 223/3 measuring 18 grounds and 2012 sq.fts in Thallakulam Village, Madurai North

Taluk. The land of the Petitioner falls within the purview of the Urban Land Tax Act, 1966.

3. On 01.07.1971, the lands owned by the Petitioner was assessed at Rs. 8,300/- (Rupees Eight thousand and three hundred only) per ground

w.e.f fasli year 1385, and accordingly tax was taxed at Rs. 2,111/- (Rupees Two thousand one hundred and eleven only). The Petitioner was

served with a demand notice on 17.01.2004. The Petitioner filed a statutory appeal to the District Revenue Officer, Madurai.

4. The appeal was adjourned to different dates for hearing. The 9th date of hearing was on 02.02.2004. This was declared to be a public holiday,

and therefore, no proceeding was conducted.

5. The Appellate Authority adjourned the case to 09.02.2004, without intimation to the Petitioner, there fore on the date fixed, neither the

Petitioner nor its counsel was present.

6. The Petitioner was proceeded ex-parte, and the assessment order was upheld by the Appellate Authority.

7. The Petitioner being aggrieved by that order, instead of moving an application for setting aside the ex-parte proceedings, chose to file a statutory

revision before Respondent No. 1.

8. The ground of challenge was that in assessment of market value for the purposes of urban tax was not based on any material and that before

levying the tax, no opportunity was given to the Petitioner and furthermore the Appellate Authority had failed to consider the important aspects of

the case.

9. It was also contended before the Revisional Authority that the Appellate Authority had not given any opportunity of hearing while disposing of

the appeal, as the Petitioner had no notice of the date of hearing of appeal on 09.02.2004.

10. The Revisional Authority upheld the order of assessment and the Appellate Authority, by holding that the assessment has been rightly done and

was based on the material available on record.

11. However, the question that the Petitioner was wrongfully proceeded against the ex-parte was not answered.

12. The facts are not in dispute, that the Appellate Authority had adjourned the appeal from time to time, and, that the 9th hearing date was fixed

on 02.02.2004 which is a public holiday.

13. It is also not in dispute, that no notice of the next date of hearing was issued to the Petitioner nor the date was got noted from the Petitioner or

its agent.

14. Therefore, the appeal proceedings stood vitiated, as the Appellate Authority is bound to issue notice of the date of hearing, if the date on which

the appeal was fixed happened to be a holiday, unless the date is got noted from the party or its agent representing the party.

15. The orders of the Appellate Authority therefore, is in violation of principles of natural justice, and the Revisional Authority, also erred in

upholding the order.

16. For the reasons stated above, the Writ Petition is allowed, the impugned order of the Appellate Authority dated 09.02.2004 and that of the

Revisional Authority, dated 22.02.2005, are set aside and the case is remitted back to the respondent No. 2, to decide the appeal filed by the

Petitioner afresh, after giving an opportunity of hearing to the Petitioner.

17. The parties through their counsel are directed to appear before the Appellate Authority, on 15.09.2011 at 10.30 A.M.

18. No costs.