

**HON'BLE SRI JUSTICE G.NARENDAR
AND
HON'BLE SRI JUSTICE T.C.D. SEKHAR**

WRIT APPEAL No. 930 of 2024

JUDGMENT:- (per Hon'ble Sri Justice G.Narendar)

1. Heard Mr.V.Venu Gopal Rao, learned Senior Counsel, along with Ms.Pulipati Radhika, learned Standing Counsel for the Appellant-Temple and learned Government Pleader for Panchayat Raj Department and Mr. A. Koteswar Rao, learned Standing Counsel for the Respondent No.4-Gram Panchayat.

2. This intra court Appeal is directed against the order of learned Single Judge, dated 23.02.2024 in W.P.No.21176 of 2016. The short question that fell for consideration before the learned Single Judge was whether the building abutting the temple and providing accommodation to devotees visiting Sri. Venkateswara Swamy vari Devasthanam, would come within the definition of a residence or building fit for human occupation and be liable for imposition of House Tax under Section 61 of the Act?

3. The learned Single Judge after appreciating the various contentions and the law laid down by the Full Bench in the case of ***Abudaya Educational Society, Prakasam District v. Kanumalla Gram Panchayat, Prakasam District***¹ has been pleased to reject the Writ Petition.

4. The facts are not in dispute.

5. It is fairly submitted by the learned senior counsel that the Temple possesses such buildings, which are utilized for providing amenities to the visiting devotees and that the buildings are neither utilized for any residential purpose or commercial purpose and then, he would submit that the order of the learned Single Judge upholding the imposition of tax, is erroneous.

6. Per contra, learned Standing Counsel for Respondent No.4 and the learned Government Pleader would vehemently contended that the buildings having been utilized for occupation of the devotees, the same falls within the ambit of sub-section (2),

¹ 2006 (6) ALD 1 (FB)

(19) of the Act and hence, automatically qualifies for imposition of tax under Section 61 of the Act.

7. We have heard the learned counsels and having given our attention to the various contentions. The learned Single Judge, while rejecting the Writ Petition has been pleased to reserve liberty to the Petitioner to approach the Respondent No.1 and seek for exemption from the ambit of the House Tax imposable under Section 61 of the Act. That apart, we find that the learned Single Judge has appreciated the right vested in the Respondent-Gram Panchayat to waive the imposition and collection of House Tax.

8. In that view of the matter, we are of the considered opinion that the order of dismissal could be modified to be read as 'disposed of' and further reserving liberty to the Petitioner to seek such redressal by way of representation seeking exemption from the imposition taxes.

9. The demand for tax as on today shall stand affirmed and the Appellant shall deposit 50% of the sums due with the Respondent-Gram Panchayat, within a period of four (04) weeks

from the date of receipt of a copy of this Order, subject to the condition that representation shall be submitted within four (04) weeks from today. In the event, such representation is made, the same shall be considered and disposed of by the Respondent No.1 within an outer limit of six (06) months from the date of receipt of the said representation.

10. In so far as the direction in para No.9 of the order in Writ Petition whereby, learned Single has directed initiation of disciplinary proceedings against the Respondent No.4, it is fairly admitted by the learned Standing Counsel and Government Pleader that on account of inadvertency, the fact of receipt of the amounts as per the interim order, dated 04.07.2016 has not been communicated to the Court and also the fact remains that the Appellant-Petitioner has deposited the amounts in compliance with the interim direction.

11. In that view of the matter, the further direction to initiate disciplinary proceedings is hereby set-aside.

12. The Writ Appeal stands ordered accordingly. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any,
pending in this Writ Appeal shall stand closed.

G.NARENDAR, J

Dated 20th November, 2024
PKR

T.C.D. SEKHAR, J

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HON'BLE SRI JUSTICE T.C.D. SEKHAR**

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Dated 20th November, 2024
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