

APHC010124252024



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3332]

THURSDAY ,THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 6655/2024

Between:

S.v.v.estates (swarna Palace),

...PETITIONER

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.K JYOTHI PRASAD

Counsel for the Respondent(S):

1.GP FOR MUNICIPAL ADMN URBAN DEV

The Court made the following:

The short grievance of the petitioner is non consideration of the petitioner's representation dated 21.03.2023 for waiver of penal amount to a tune of Rs.9,91,593/- which was adjusted out of the deposited amount as per the Court orders towards late payment penalty in the W.P.No.17129 of 2021 and W.P.No.43165 of 2017 and not giving credit to the same while paying the amounts i.e., Rs.25,09,386/-.

2. Heard Sri K.Jyothi Prasad, learned counsel for the petitioner, Sri M.Manohar Reddy, learned Standing Counsel for Municipal Corporation and Learned Assistant Government pleader for Municipal Administration and Urban Development.

3. Learned counsel for the petitioner in elaboration to what has been stated in the affidavit contended that, there is a Government order wherein, the 2nd respondent Corporation can waive interest on arrears of property tax. Earlier, the Corporation collected Rs.25,09,386/- from the petitioner by virtue of court orders in C.M.A.No.220/2011 towards property tax including arrears and interest. By virtue of G.O.Ms.No.34 the Corporation has to adjust Rs.9,91,593/- (which was paid towards penalty) which was collected by the authorities for which the petitioner is entitled as waiver. So far, the said amount was not adjusted by the Corporation. In view of the same, the petitioner made a representation dated 21.03.2023 and the same was not disposed of by the Corporation. Now for the present year, the Government issued another G.O *vide* G.O.Ms.No.35 dated 29.02.2024 wherein, the petitioner can waive off the interest accumulated on arrears of property tax dues up to the year 2023-24 as one time measure and the interest amount already paid by the tax payers on arrears and on current year's property tax demand during the year 2023-24 be adjusted towards the future property tax payments & no cash refund shall be made, subject to clearance of all dues by 31.03.2024. Due to non disposal of the petitioner's representation by the Corporation, the petitioner is unable to make any application in that regard. Until and then the Corporation adjusts Rs.9,91,593/-, the petitioner

cannot claim any waiver of penalty by virtue of G.O.Ms.No.35 dated 29.02.2024 and the last date for claiming waiver application is 31.03.2024. As such, prayed to pass appropriate orders protecting the interest of the petitioner.

4. On the other hand Sri M.Manohar Reddy, learned Standing Counsel for Municipal Corporation submitted that, the petitioner without making any application availing the benefits of G.O.Ms.No.35 dated 29.02.2024, cannot raise any grievance against the Corporation. Once the petitioner makes an application claiming waiver by virtue of the said G.O, the authorities would consider and pass orders both on the application made by the petitioner and also on the representation dated 21.03.2023.

5. Perused the record.

6. The petitioner seems to have been paid an amount of Rs.25,09,386/- which include penalty and interest on the property tax. Out of the said amount, the petitioner is entitled to refund Waiver amount (penalties & interest) of Rs.9,91,593/- by virtue of the Government Orders. For the current year, the Government has issued latest G.O.Ms.No.35 dated 29.02.2024 wherein, the last date for availing waiver is 31.03.2024 for payment of total arrears and current year tax in one lump sum or in installments. By taking the facts and circumstances of the case & by virtue of deadline fixed by the authorities under the said Go as 31.03.2024, this Court is inclined to pass the following order:

(i) The petitioner is at liberty to make an application claiming waiver by virtue of G.O.Ms.No.35 dated 29.02.2024.

(ii) On such application, the authorities concerned shall adjudicate the same along with the petitioner's representation dated 21.03.2023 and pass appropriate orders in accordance with law and communicate the same to the petitioner within a period of four (04) weeks from the date of receipt of the application made by the petitioner pursuant to G.O.Ms.No.35 dated 29.02.2024.

(iii) Till such exercise, the Corporation is directed not to take any coercive steps against the petitioner.

(iv) The petitioner shall pay the arrears after deducting the amount of Rs.9,91,593/- and the same amount would be subject to the outcome of the orders passed by the Corporation on the petitioner's representation dated 21.03.2024.

7. With the consent of both the learned counsel, the Writ Petition is **disposed of.**

Miscellaneous applications, pending if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

28th March, 2024

Note: CC by today

B/o.

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THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 6655/2024

Date: 28.03.2024

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