

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.28375 to 28378 of 2015 &
M.P.Nos.1 & 2 of 2015

RMZ Infotech Private Limited
The Millenia Tower B
Level 12-14
No.1 & 2 Murphy Road
Ulsoor Bengaluru 560 008

.... Petitioner in all WPs

Vs.

1. The Commissioner
Corporation of Chennai
Revenue Department
Chennai
2. The Assistant Revenue Officer
Corporation of Chennai
Revenue Department (Zone 14)
Chennai
3. The Assessing Officer
Corporation of Chennai
Revenue Department
Chennai
4. The Zonal Officer
Zonal Office 14 Corporation of Chennai
6/64 Puzhuthivakkam Main Road
Puzhuthivakkam
Chennai 91

... Respondents in all WPs

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of Certiorari calling for the records of the entire proceedings culminating in the impugned Final Assessment Notices dated 4.8.2015 bearing Nos.10/15-16/3503, 10/15-16/3502, 10/15-16/3504 and 10/15-16/3501 respectively passed by the respondents and quash the same.

For Petitioner : Mr.R.Senthil Kumar

For Respondents : Mr.T.C.Gopalakrishnan

COMMON ORDER

The petitioner has come forward with these writ petitions to quash the impugned demand notices issued by the respondents.

The facts of the case are as follows:-

2.1 Petitioner company registered under the Companies Act, 1956, is the owner of the buildings situated at North Veeranam Salai, Dr.MGR Road, Perungudi, Chennai comprised in Survey Nos.9/1A, 9/1B, 9/1C, 9/2A1, 9/2A2, 9/2A3, 10/2A, 15/3, 16/1, 16/2 & 16/3, 17/1, 17/2, 36/16C1, and 36/16C2 and was paying the property tax regularly. The subject buildings were constructed as Multi storied buildings for use by the Information Technology (IT) Industry and were accordingly leased/rented out to various I.T. Companies. The planning permit was obtained from the Member Secretary, Chennai Metropolitan Development Authority on 15.12.2006, building approval was obtained from the Perungudi Town Panchayat and the subject buildings were assessed to property tax for the first time under the provisions of the Tamil Nadu District Municipalities Act, 1920 and notice bearing Nos.6810/2010-11, 6811/2010-11, Nos.6812/2010-11 and Nos.6813/2010-11 respectively dated 31.08.2010 were issued by the Perungudi Town Panchayat, levying half yearly property tax. Pursuant thereto, the petitioner paid consolidated amounts per year as property tax for the two half years in financial years 2011-2011 and 2011-12.

2.2 Meanwhile, as per the policy decision taken vide G.O.No.256, dated 26.12.2009 by the Government of Tamil Nadu, the areas previously within the jurisdiction of the Perungudi Town Panchayat have been included with the Corporation of Chennai. However, with effect from the first half of financial year 2012-2013 the petitioner's properties were brought within the purview of Zone 14, Ward 184 of Corporation of Chennai and the petitioner was called upon to pay property tax. Accordingly, the petitioner paid property tax on half early basis for the financial years 2012-13 to 2014-15 and last of these payments were made on 30.09.2014 for the second half of the financial year 2014-15.

2.3 While so, in the month of November 2014, pursuant to the subject buildings being surveyed by the 3rd respondent, the petitioner on 9.4.2015 received Provisional Notices dated 26.3.2015 from the 2nd respondent. Upon perusing the Provisional Notices, the petitioner found that the Annual Rental Value were revised and accordingly, half yearly tax was enhanced with retrospective effect from 2009-10.

2.4 As provided, the above mentioned provisional notices were challenged by way of appeals before the 1st respondent, questioning the enhanced half yearly tax with retrospective effect from 2009-10. Thereafter, the petitioner received a hearing notice dated 25.5.2015 from the 2nd respondent on 5.6.2015. Accordingly, the petitioner attended the hearing but the case was adjourned without assigning any further dates for hearing. Under these circumstances, the petitioner received the impugned final assessment notices dated 4.8.2015, bearing Nos. 10/15-16/3503, 10/15-16/3502, 10/15-16/3504 and 10/15-16/3501 respectively fixing the enhanced half yearly property tax with retrospective effect from 2009-10 and hence, the petitioner is before this court.

3. The learned counsel for the petitioner submitted that in spite of submission of objections to the impugned notices, the respondents issued notices for payment of property tax for current demand and arrears without considering the same. Moreover, no opportunity of personal hearing is given to the petitioner. It is further submitted that the respondents has no power of retrospective enhancement of property tax under the Act. Learned counsel also contended that the impugned notices cannot be allowed to proceed as the said notices are issued without making proper assessment and calculation and they are not in conformity with the provisions of law.

4. Learned standing counsel for the Chennai Corporation contended that the assessment made is in conformity with Section 137(B) of the Chennai City Municipal Corporation Act, 1919 and hence in the case of property tax has not been duly assessed in any half year or year consequent on the building or land concerned having escaped proper determination of its annual value, the Commissioner may, at any time, from the date on which such person should have been assessed, serve on such person a notice assessing him to the tax or fee due and demanding payment thereof within fifteen days from the date of such service. Therefore, there is no infirmity with the impugned proceedings in these cases. The respondents have followed the

procedure and there is no contravention of any provision of law. It is also open to the respondents to consider the objection including the retrospective effect.

5. Heard both sides and perused the materials.

6. Having regard to the facts and circumstances of the case, this court after considering the submissions of learned counsel on either side, perused the notices and found that it is not in dispute that impugned notices were sent to the petitioner proposing to revise tax. The provisional notices does not provide sufficient details on the mode of fixing and calculating the Annual Rental Value, the basic rate, the monthly rental value, deductions and discounts applied in connection with the revised assessments. In the absence of essential details, the petitioner submitted that the provisional notices are arbitrary, incomplete, invalid and against the provisions of the Chennai Municipal Corporation Act, 1919 and Rules thereunder. The demand of current tax and arrears of tax were made even before considering the objections and no opportunity of hearing is given to the petitioner. Further, when the petitioner was awaiting completion of the joint measurement, he received a notice dated 1.7.2015 from the 1st respondent informing him about a new provision to make payments of property tax on line and enclosing unsigned notices for current demands and arrear demands with retrospective effect from 2009-10. The said notices were issued without taking into consideration the payments made by the petitioner towards property tax for the period 2010-11 and 2011-12 and appears to provide inadequate credit for amounts already paid for the financial years 2012-13, 2013-14 and 2014-15 and hence the impugned notices cannot be sustained.

7. In view of the above, the impugned orders and demand notices are quashed. The matters are remitted back to the respondents to pass appropriate orders afresh on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order after considering the objections and after affording an opportunity of personal hearing to the petitioner. In the meantime, the respondents are restrained from taking any coercive steps against the petitioner to collect the tax amount pursuant to the demand notice. It is needless to mention that the petitioner is not prevented by this order from paying the property tax for the current period.

The writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Rj

To

1. The Commissioner
Corporation of Chennai
Revenue Department
Chennai
2. The Assistant Revenue Officer
Corporation of Chennai
Revenue Department (Zone 14)
Chennai
3. The Assessing Officer
Corporation of Chennai
Revenue Department
Chennai
4. The Zonal Officer
Zonal Office 14 Corporation of Chennai
6/64 Puzhuthivakkam Main Road
Puzhuthivakkam
Chennai 91

+2cc's to Mr.T.C.Gopalakrishnan, Advocate, S.R.No.51658

+4cc's to Mr.R.Senthil Kumar, Advocate, S.R.No.51225

W.P.No.28375 to 28378 of 2015 &
M.P.Nos.1 & 2 of 2015

NM(CO)
CA(08/10/2015)