IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.02.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3504 of 2015
and
MP.No.01 of 2015

S. Jayasunder ...Petitioner

.Vs.

1. The Commissioner
Corporation of Chennai
Rippon Buildings, Chennai - 1

2. The Assistant Revenue Officer
Zone 05, Corporation of Chennai
Royapuram, No.62, Basis Bridge Road
Old Washermenpet, Chennai -21 ...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus calling for the records of the 1st respondent relating to his proceedings resulting in the issue of the Impugned Final Order dated 02.12.2014 in his Reference Notice 10/14-15/3901 dated 02.12.2014 fixing the Annual Rental Value of Rs.1,11,885/- and the consequential fixing the Half Yearly Property Tax at Rs.13,875/-in respect of the petitioner's property bearing New Door No.473, Old No.229/1, Mint Street Park Town, Chennai-600 003 assessed to Property Tax under Bill No.05/059/ 01771/000 Old Bill No.03/049/ 0123/001 and quash the same and direct the 1st respondent to pass final orders after holding necessary enquiry by furnishing the petitioner with the provision order and by giving him an opportunity to submit his objections.

For Petitioner : Mr.N.Nagu Sah

For Respondent : Mr.B.S.Senthilkumar

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O R D E R

Heard, Mr.N.Nagusah, learned Counsel appearing for the petitioner, Mr.B.S.Senthilkumar, learned Additional Government Pleader (Taxes) and perused the materials available on record.

2. The petitioner has come up with the present Writ Petition challenging the impugned order dated 02.12.2014 on the ground of violation of principles of natural justice and seeks to direct the respondent to pass orders after furnishing the copy of the assessment order and after hearing him.

3. The learned counsel for the petitioner contended that in spite of specific direction by this Court on 25.3.2014, the respondent has passed the impugned order without furnishing the Provisional Order and without affording an opportunity of personal hearing as contemplated under law. Therefore, the impugned order is per se illegal and non est in the eye of law.

4. I have heard the learned standing counsel for the respondents on the submission made by the learned counsel for the petitioner.

5. The petitioner, earlier filed writ petition in WP.No.8767 of 2014 for a mandamus directing the respondents therein to furnish the provisional order passed by them proposing to enhance the half yearly property tax from Rs.5,526/- to Rs.20,716/- in respect of the petitioner's property bearing New Door No.473, Old No.229/1, Mint street, Park Town, Chennai - 3. This Court, while giving direction to the respondents therein to consider and dispose of the representation dated 10.3.2014, has made an observation that the petitioner has not been served with the Provisional Order with regard to the property tax. Even thereafter, the respondents have not passed any orders on the petitioner's representation, which resulted in issuing notice of contempt. After serving of the notice of the contempt dated 01.10.2014, the final assessment order has been passed on 02.12.2014 that too, without furnishing provisional order and without hearing the petitioner as contemplated under law.

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6. Admittedly, the representation given earlier has also not been disposed of by the respondents. It is the contention of the respondents that the petitioner has got a right of appeal before the Tribunal. The said contention of the respondents cannot be accepted in this case, as the petitioner has established the fact that the impugned order has been passed in violation of principles of natural justice. Admittedly, the respondents have not furnished

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the copy of the provisional assessment order as directed by this Court earlier. Further, no proof has been produced to show that the same has been served on the petitioner.

7. In view of such circumstances, I am inclined to quash the impugned order only on the ground of violation of principles of natural justice. Accordingly, the impugned assessment order is set aside and the matter is remitted back to the original authority for fresh consideration.

8. The authority concerned is directed to send a copy of the provisional assessment notice to the petitioner in the address mentioned in the contempt notice dated 01.10.2014 through the Registered Post with Acknowledgement Due or Speed Post within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the petitioner is directed to file his objections along with documents, if any, within a period of two weeks thereafter. On receipt of the said objections, the authority concerned shall pass orders on merits and in accordance with law, after affording an opportunity of personal hearing and also after taking into consideration the observation stated supra, within a period of two weeks thereafter. The respondents shall send a communication with regard to the date of appearance well in advance by Registered Post with Acknowledgement Due or Speed Post.

9. The Petitioner is directed to appear before the Authority concerned on the date to be specified by them and make his submissions both oral and written and also produce all the documents, if any, in support of his case.

10. In case the petitioner fails to avail the opportunity on the date to be specified by the authority, it is open to the respondents to pass appropriate orders on merits and in accordance with law without being influenced by the earlier order passed by the Authority, which has been set aside by this Court in this Writ Petition.

The Writ Petition is allowed to the extent indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner
   Corporation of Chennai
   Rippon Buildings, Chennai - 1

2. The Assistant Revenue Officer
   Zone 05, Corporation of Chennai
   Royapuram, No.62, Basis Bridge Road
   Old Washermenpet, Chennai -21

1 CC to Mr.B.S.Senthilkumar, Advocate SR.No. 10087

1 CC to Mr.N.Nagu Sah, Advocate SR.No. 10139

W.P.No.3504 of 2015
and M.P.No.1 of 2015

EV (CO)
PSI (10.03.2015)

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