IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 09.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.3810 and 3849 of 2015

Aruna Industrial Corporation
rep by its Partner R.Arunachalam
No.18, 11th Avenue
Ashok Nagar, Chennai-83 ..Petitioner in both cases

Vs.

1.The Commissioner
Corporation of Chennai
Rippon Building
Chennai

2.The Revenue Officer
Corporation of Chennai
Zone-11, Rippon Building
Chennai ... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records pertaining to the 1st respondents impugned demand notice dated 27.12.2014 in notice proceedings 7/14-15/4303 order No.M/11/155/14-15/0102 and 7/14-15/4306 order No.M/11/155/14-15/0101 and quash the same.

For Petitioner : Ms.K.Jayakarthiga

For Respondent : Mr.B.B.Senthil kumar for Corporation

COMMON ORDER

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

2. Petitioner is the owner of the said property and was paying the property tax regularly. The said property was under the control of Ramapuram Panchayat upto the second half ot 2012. From the second half it has been merged with Corporation of Chennai. The petitioner has paid the property tax to the Corporation without any default. While so, the respondents has issued demand notice 7/14-15/4303 order No.M/11/155/14-15/0102 and 7/14-15/4306 order No.M/11/155/14-15/0101 demanding the revised property tax from 2008 to 2015.

3. It is submitted by the learned counsel for the petitioner that the main grievance of the petitioners is that inspite of submission of objections to the impugned notice, the respondent issued a otice for payment of property tax for current demand and arrears without considering the same. Moreover, no opportunity of personal hearing is given to the petitioners. 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 notice cannot be allowed to proceed as the said notice is issued without making proper assessment and calculation and they are not in confirmity with the provisions of law.

4. Learned standing counsel for the Chennai Corporation contended that the assessment made is in confirmity 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 it 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 first respondent has followed the procedure and there is no contravention of any provision of law. It is also open to the respondent to consider the objection including the retrospective effect.

5. Heard both sides.

6. Having regard to the facts and circumstances of the case, this court after considering the submissions of learned counsel on either side, found that it is not in dispute that impugned notices were sent to the petitioners proposing to revise tax. 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 petitioners and hence the impugned notice cannot be sustained and the same is quashed. The writ petitions are allowed. It is made clear that the respondents are directed not to collect the revised property tax from the year 2008 to second half of 2012. The matters are remitted back to the respondents to pass appropriate orders 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 upto date at the pre-revised date. No costs. Consequently, connected miscellaneous petitions are closed.

kpr

Sd/-
Asst. Registrar
Dt: 24/3/2015

/true copy/

Sub Asst. Registrar.

To

1. The Commissioner
   Corporation of Chennai
   Rippon Building
   Chennai

2. The Revenue Officer
   Corporation of Chennai
   Zone-11, Rippon Building
   Chennai

+ 2 ccs to M/s.K.Kannan, Advocate SR 13077, 13076

+ 2 ccs to Mr.B.B.senthil Kumar, Advocate SR 13402

ug(co)
prk24/3

W.P.Nos.3810 and
3849 of 2015