IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.7745 and 7746 of 2015

A.Kothandam ..Petitioner in both cases

Vs.

1.The Commissioner
Corporation of Chennai
Rippon Building
Chennai

2.The Zonal Officer
Zone-XI (Ward No.147)
Corporation of Chennai
Chennai ... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus to call for the records relating to the 1st respondents order made in No.7/14-15/4325 and 4326 dated 27.12.2014, (in Z.O.XI/C.No.209 and 207/2014-15) to quash the same and consequently direct the respondents to continue to accept the previous assessed tax for the petitioner's premises.

For Petitioner : Mr.L.Chandrakumar

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

COMMON ORDER

The petitioner has come forward with these writ petitions to quash the impugned order issued by the 1st respondent.

2. Petitioner is the owner of the said property and was paying the property tax regularly. The said property was under the control of Maduravoyal Municipality upto 2010. During 2010-11 Maduravoyal Municipality has been upgraded to Corporation and the termed revised assessment has been served on the petitioner, wherein revision of assessment has been made effecting retrospectively from first half year of 2008-09 and the new property tax was arrived at Rs.95,075/- and Rs.55,735/- which is challenged by way of these writ petitions.

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 notice for payment of property tax for current demand and arrears without considering the same. Moreover, no opportunity of personal hearing was given to the petitioner. It is further submitted that the first respondent has no power of retrospective enhancement of property tax under the Act. Learned counsel also contended that the impugned order cannot be allowed to proceed as the said order 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 orders were sent to the petitioner 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 petitioner and hence the impugned order 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 first half of 2008-09 to second half of 2014. 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.

s/d-
Assistant Registrar(V)

True Copy

Sub-Assistant Registrar

To

1.The Commissioner
Corporation of Chennai
Rippon Building,Chennai

2.The Zonal Officer
Zone-XI (Ward No.147)
Corporation of Chennai
Chennai

+ 2 ccs to Mr.L.Chandrakumar, Advocate SR 17788

+ 1 cc to Mr.B.B.Senthil Kumar, Advocate SR 17497

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