IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.06.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.10964 and 10965 of 2016
and
W.M.P.Nos.9556 to 9559 of 2016

M/s. Arun Plasto Moulders India Pvt. Ltd.,
rep. by its Director P.Marimuthu,
3- C1, Phase III, SIDCO Industrial Estate,
Ekkattuthangal, Chennai - 600 032.
...Petitioner in both W.Ps.

Vs.

1. Chennai Metropolitan Water Supply & Sewerage Board,
rep. By Managing Director,
No.1, Pumping Station Road,
Chindatripet, Chennai - 600 002.

2. Chennai Metropolitan Water Supply & Sewerage Board,
rep. by the Deputy Collector,
Area XIII, 42 First Main Road,
Indira Nagar, Chennai - 600 020.

...R-1 and 2 in W.P.No.10964 of 2016

3. The Commissioner
Corporation of Chennai,
Rippon Building, 16, EVR Periyar Salai,
Chennai - 600 003.

...R-3 in W.P.No.10964 of 2016
& Respondent in W.P.No.10965 of 2016

W.P.No.10964 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the respondent, relating to the demand for water tax at the rate of Rs.28,060/- per half year, towards water tax together with arrears and surcharge for Rs.1,54,102/- from the second half year 2009-2010 till date in respect of the petitioner's premises under Assessment Bill No.13-170-02125-000 and consequently, to quash the impugned demand of the respondent as null and void and consequently, to direct the respondents to receive water tax from the petitioner on the basis of previous annual value at the rate of Rs.20,151/- per half year.

W.P.No.10965 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the respondent, relating to the fixation of Rs.99,410/- towards property tax from the second half year 2009-10 together with arrears of Rs.5,78,390/- from the second half year 2009-10, in respect of the petitioner's premises under Assessment Bill No.13-170-02125-000 and consequently, to quash the impugned demand of the respondent as null and void and consequently, to direct the respondents to receive property tax from the petitioner on the basis of previous annual value at the rate of Rs.71,394/-

For Petitioner :Mr.Menon Karthik

For Respondents 1 and 2 :Mr.M.Jothikumar
Standing Counsel
in W.P.No.10964/2016

For R-3 in W.P.No.10964/2016
& Respondent in W.P.No.10965/2016 :Mr.T.C.Gopalakrishnan

COMMON O R D E R

Heard Mr.Menon Karthik, learned counsel appearing for the petitioner, Mr.M.Jothi Kumar, learned Standing Counsel, accepting notice for respondent/Chennai Metropolitan Water Supply & Sewerage Board, (CMWSSB) and Mr.T.C.Gopalakrishnan, learned counsel, accepting notice for Corporation of Chennai. With consent on either side, the Writ Petitions are taken up for final disposal.

2. In W.P.No.10964 of 2016, the petitioner has challenged the increased demand of water and sewerage tax as a consequence of increase in property tax. In W.P.No.10965 of 2016, the same petitioner has challenged the unilateral increase of property tax per half year to Rs.99,410/- from Rs.71,394/- with retrospective effect from second half year 2009-10.

3. Since the petitioner in both the Writ Petitions are one and the same, and the relief sought for in both Writ Petitions are inter-connected, they have been taken up together, and disposed of by this common order.

4. After elaborately hearing the learned counsel appearing for the parties, and carefully perusing the materials placed on record, it is clear that the revision of property tax has been done without following basic procedure. Property tax has been revised by mentioning the increased figure via., on line.

5. The specific case of the petitioner is that they have not been issued with pre revision notice, and they had no opportunity to object to the increase of property tax, that too, with retrospective effect.

6. The Officials of the Corporation of Chennai, (2 in nos.) are present in Court, and the learned counsel for Corporation with instructions from the Officials and from records, would submit that the petitioner filed an Appeal before the Corporation of Chennai, and the same is pending, hence, the learned counsel submitted that the Commissioner of Corporation of Chennai, may be directed to consider and dispose of the Appeal, on merits and in accordance with law within a time frame.

7. On normal circumstances, this Court would have issued such a direction. However, in the instant cases, it is evidently clear that, while revising the annual value of the petitioner's premises, and the consequential the property tax, the respondent/Corporation have not followed the procedure as required under Section 98 (A) of the Chennai City Municipal Corporation Act (hereinafter, referred to as the Act). Before revising the property tax, prerequisite condition is that the building in question should be inspected, to such inspection, provisional assessment, mentioning annual value of the building and proposed increase in property tax should have been informed to the petitioner/assessee, giving him an opportunity to raise objection. Only after considering the objection, final order of revision of assessment of property tax should have been made. In the instant cases, all that, the Officers, who are present in Court, would state that the petitioner is aware of the increase, however, that is not sufficient to demand enhanced property tax, and the enhancement should be made only after following the procedure contemplated under the Act, after notice to the petitioner.

8. In the light of the above, the impugned demand, demanding enhanced property tax, at the rate of Rs.99,410/- with retrospective effect from second half year 2009-10 stands quashed, and the matter is remanded to the respondent/Corporation for fresh decision. The Revision Officer of the respondent/Corporation shall issue a show cause notice, mentioning the proposed revision, and as to why the proposed revision has retrospective effect. On receipt of the notice,

the petitioner is entitled to submit their objection, and after receipt of the objection, the competent authority shall pass final orders of assessment towards property tax. The above exercise shall be complied with, within a period of eight weeks from the date of receipt of a copy of this order. Till final orders of assessment are passed, the petitioner shall continue to remit the property tax at the pre revised rate, viz., Rs.71,394, without any arrears, and the respondent/Corporation is directed to receive the same without prejudice to the order, that may be passed by them, as per the direction stipulated hereinabove.

9. In the light of the fact that the revision of property tax has been set aside, and the matter has been remanded to the respondent/Corporation for fresh consideration, the respondent/CMWSSB are also not entitled to demand enhanced water and sewerage tax. Accordingly, the impugned demand, demanding enhanced water and sewerage tax is also set aside, and the petitioner shall continue to remit old water and sewerage tax at the rate of Rs.28,060 per half year till orders are passed by the Corporation of Chennai, fixing the property tax. Upon such fixation of property tax, notice shall be issued to the petitioner by CMWSSB, proposing to revise the water and sewerage tax, and after taking note of the objection that the petitioner may give for the revised water and sewerage tax, respondent/CMWSSB shall proceed further in accordance with law. Till such decision is taken by CMWSSB, the petitioner shall continue to remit water tax as per the pre revised rate, which shall be received by CMWSSB without prejudice to the orders that may be passed by them based upon the orders to be passed by the Corporation of Chennai, revising the property tax.

10. In the result, both the Writ Petitions are allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Managing Director,
   Chennai Metropolitan Water Supply & Sewerage Board,
   No.1, Pumping Station Road,
   Chindatripet, Chennai - 600 002.

2. The Deputy Collector,
   Chennai Metropolitan Water Supply & Sewerage Board,
   Area XIII, 42 First Main Road,
   Indira Nagar, Chennai - 600 020.

3. The Commissioner
   Corporation of Chennai,
   Rippon Building, 16, EVR Periyar Salai,
   Chennai - 600 003.

+2cc to M/S.Menan, Advocate Sr.31665

Writ Petition Nos.10964 and 10965 of 2016

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srg 13/07/2016