IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 02.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.14406 of 2016

and WMP No.12597 of 2016

1 M/s.Grundfos Pumps India Pvt Ltd
Rep by its Director Finance and
Company Secretary
Mr. A.Venkataraman
118, Rajiv Gandhi Salai
Thoraipakkam
Chennai-600 097. .. Petitioner

Vs.

1 The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Park Town,
Chennai-600 003.

2 The Zonal Officer,
Zone-15, Corporation of Chennai,
120, Rajiv Gandhi Salai,
Sozhinganallur,
Chennai-600 119.

3 The Assistant Revenue Officer,
Zone-15, Corporation of Chennai,
120 Rajiv Gandhi Salai,
Sozhinganallur,
Chennai-600 119.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records on the file of the third respondent in proceedings Se Ma Au Va Thu/Spl/ 2016-17 dated 24.02.2016 pertaining to the demand of a Sum of Rs.32,71,329/- as arrears of tax of the Thoraipakkam Property and quash the same and consequently direct the third respondent to issue Notice No. 10 to enable the petitioner company to prefer an appeal before the Taxation Appeal Tribunal, Corporation of Chennai.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.T.C.Gopalakrishnan

O R D E R

Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner and Mr.T.C.Gopalakrishnan, learned Standing Counsel for the Corporation of Chennai, accepting notice on behalf of respondents. With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2.The petitioner has filed this Writ Petition praying for issuance of a writ of certiorarifiled mandamus to quash the order passed by the third respondent dated 24.02.2016, which in fact is a distraint notice issued to the petitioner calling upon the petitioner to clear the entire arrears of property tax being Rs.32,71,329/-, failing which action would be initiated under the provisions of the Chennai City Municipal Corporation Act.

3.The petitioner was served with a notice of re-assessment in Form No.7 on 20.07.2015. The said re-assessment was for the period from 2nd half year of 2011-12 - 1st half year of 2015 and the annual value was determined at Rs.99,09,936/- and the half early tax computed at Rs.4,12,914/-. The said notice or revised assessment order was issued by the third respondent and the notice states that within fifteen days from the date of receipt of the same, an appeal can be preferred to the Commissioner of Corporation of Chennai.

4.Accordingly, the petitioner preferred an Appeal Petition to the Commissioner of Corporation of Chennai on 23.09.2015, objecting to the revised assessment that too with retrospective effect. Though Appeal was preferred to the Commissioner, the petitioner received a reply from the third respondent dated 25.09.2015, referring to the appeal petition preferred by the petitioner dated 23.09.2015, stating that the revised assessment done vide order dated 20.07.2015 is found to be correct and advised payment of enhanced tax. However, it appears that the petitioner did not prosecute the matter further, which resulted in issuance of the impugned distraint notice dated 24.02.2016. On receipt of the same, the petitioner has remitted a sum of Rs.16,35,665/-, as evidenced by the receipt dated 26.2.2016. Thereafter, the petition appears to have approached the Taxation Appellate Tribunal, by filing an appeal as against the revised assessment.

5.The petitioner in the affidavit filed in support of the writ petition, stated that the Taxation Appellate Tribunal did not entertain the petitioner's appeal on the ground that unless and until a notice in Form No.10 is issued, the appeal is not maintainable. With these facts, the petitioner once again submitted another representation to the third respondent on 03.3.2016, requesting the third respondent to redo the assessment. The said representation was received by the Office of the third respondent on 4.3.2016, subsequently, a legal notice was sent by the petitioner on 24.3.2016, to the third respondent. However, it appears that those representations did not evoke any response, which has necessitated the petitioner to approach this Court by way of this writ petition.

6.After hearing the learned counsel for the parties, this Court is of the view that the petitioner should be communicated with the final order of revised assessment after the order dated 20.07.2015, moreso when the said order states that if a person who is aggrieved of the order, can prefer an appeal to the Commissioner of Corporation of Chennai. However, the Appeal Petition filed by the Commissioner was rejected by the third respondent himself by order dated 25.09.2015, which is incorrect.

7.In the light of the above, there will be a direction to the first respondent to consider the petitioner's objection dated 23.09.2015, and pass fresh orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. Taking into consideration of the fact that the petitioner had already remitted a sum of Rs.16,35,665/-, no coercive action shall be initiated against the petitioner, till orders are passed by the first respondent. Further the petitioner shall continue to pay the property tax at the pre-revised rate.

The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1 The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Park Town,
Chennai-600 003.

2 The Zonal Officer,
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3 The Assistant Revenue Officer,
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Chennai-600 119.

+1cc to Mr.S.Rajasekar, Advocate Sr.29280

W.P.No.14406 of 2016

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srg 07/06/2016