IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.6.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.14579 of 20156
and
W.M.P.No.12753 of 2016

Sri.Balaji Inter Continental,
rep.by Mr.Ashok Kumar Murarka
Chennai-3 ... Petitioner

Vs

1.The Commissioner,
The Corporation of Chennai,
Rippon Buildings, Poonamallee High Road,
Chennai-600 003

2.The Assistant Revenue Officer,
(Zone V),
Corporation of Chennai,
No.105/47, Basin Bridge Road,
Chennai-600 079 ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of declaration declaring the notice dated 25.3.2016 issued by the respondents is against the order in O.S.No.1613 of 2006, on the file of the IV Assistant Judge, City Civil Court, Chennai, dated 31.7.2006.

For Petitioner : Mr.V.Bhiman
For Respondents : Mr.T.C.Gopalakrishnan

ORDER

Heard Mr.V.Bhiman, learned counsel for the petitioner and Mr.T.C.Gopalakrishnan, learned counsel, who accepts notice for the respondents and with the consent of parties, the writ petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition praying for issuance of a writ of declaration to declare the notice issued by the respondent Corporation dated 25.3.2016 as null and void, in the light of the decision in O.S.No.1613 of 2016, dated 31.7.2016, on the file of the City Civil Court, Madras.

3. In the said suit, the petitioner questioned the warrant notice dated 3.2.2006 demanding enhanced property tax. The Court decreed the suit, declared the warrant of demand as illegal and restrained the Corporation of Chennai from demanding enhanced rate of tax in respect of the suit property, without disposing of the petitioner/plaintiff's statutory appeal.

4. As against the enhanced property tax, i.e. enhancement from Rs.24,272/- to Rs.37,271/-, the petitioner has filed an appeal before the Taxation Appellate Tribunal. However, it is seen that the appeal petition has been sent by registered post. It is not clear as to whether the petitioner has complied with the mandatory pre-deposit condition i.e. depositing of 50% of the enhanced property tax.

5. From the materials available on record, it is seen that the petitioner has been remitting property tax only at the rate of Rs.24,272/- and not at the enhanced rate. Therefore, to enable the petitioner to pursue his appeal, the petitioner has to first deposit 50% of the enhanced tax and thereafter request the Tribunal to take up the appeal.

6. In the light of the above, the writ petition is disposed of by directing the petitioner to appear before the Taxation Appellate Tribunal along with a copy of this order, remit 50% of the enhanced tax amount and request the Tribunal to take up his appeal. If the petitioner complies with the above mandatory pre-deposit condition, the Tribunal shall consider the petitioner's appeal on merits and in accordance with law and dispose of the same as expeditiously as possible. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

msk

To

1.The Commissioner,
The Corporation of Chennai,
Rippon Buildings, Poonamallee High Road,
Chennai-600 003

2.The Assistant Revenue Officer,
(Zone V),
Corporation of Chennai,
No.105/47, Basin Bridge Road,
Chennai-600 079

+1cc to Mr.V. Bhiman, Advocate, S.R.No.33243

BVR(CO)
EU(23/06/2016)

W.P.No.14579 of 2016