IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.8.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.970 of 2013 & MP.No.1 of 2013

M.Syed Ibrahim ...Petitioner

Vs

1.The Commissioner, Corporation of Chennai, Chennai-3.

2.The Revenue Officer, Corporation of Chennai, Chennai-3. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the proceedings bearing No.Ma.A5.Va.Thu.Na.Ka.No.R2/426/2012 dated 17.7.2012 as well as the final assessment order bearing order No.M/05/ 060/12-13/0001 dated 13.7.2012 of the 1st respondent herein namely the Commissioner, Corporation of Chennai-1 in so far as it directs the petitioner to pay the property tax in respect of property belonging to the petitioner bearing old Door No.311, New No.46, Thambuchetty Street, Chennai-1 in fixing the property tax with retrospective effect from the assessment year 2/2001-2002 amounting to Rs.23,660/-, quash same both the proceedings and the said notice and consequently direct the respondents to assess the property tax in respect of the property belonging to the petitioner bearing old Door No.311, New No.46, Thambuchetty Street, Chennai-1 as per the provisions contained in Madras City Municipal Corporation Act, 1919.

For Petitioner : Mr.K.S.Govinda Prasad
For Respondents : Mr.S.Saravanan

ORDER

Heard both.

2. The petitioner is aggrieved by the order passed by the respondent Corporation dated 17.7.2012, by which, the annual value of the building and half yearly property tax were refixed. Along with the impugned order, Notice No.10, which is the final assessment notice, has also been appended.

3. The impugned order is a fall out of a direction issued in W.P.No. 10246 of 2008 dated 15.12.2011. The said writ petition, which was filed challenging a notice dated NIL refixing the half yearly property tax, was allowed and liberty was granted to the

respondents to make a fresh assessment on the property after issuance of appropriate notice to the petitioner in accordance with the provisions of the Chennai City Municipal Corporation Act and the Rules made thereunder and take a final decision in the matter after affording an opportunity to the petitioner. The petitioner was directed to pay the pre-revised tax in the meantime.

4. Though such specific directions were issued by this Court, only a part of the directions has been complied with by the respondents in as much as the building has been inspected and measurements have been taken. The appropriate procedure to be followed thereafter would be to make a provisional assessment and serve notice on the petitioner granting time to the petitioner to file objections. Only after considering such objections, final assessment could have been made. Therefore, the Authority concerned committed a procedural error while making the final assessment.

5. In the light of the above, instead of setting aside the impugned proceedings, the petitioner is directed to treat the impugned final assessment issued in Notice No.10 dated 17.7.2012 as a preliminary assessment and submit his objections within a period of three weeks from the date of receipt of a copy of this order. After the objections are given, the respondents are directed to consider the same in proper perspective and pass fresh final assessment orders. If the petitioner is still aggrieved by such orders, it is always open to the petitioner to file an appeal before the Taxation Appeal Tribunal. No costs. Consequently, the above MP is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Commissioner, Corporation of Chennai, Chennai-3.

2.The Revenue Officer, Corporation of Chennai, Chennai-3.

+1 cc to M/s.K.S.Govindaprasad,advocate,sr.44992

+1 cc to M/s.S.Saravanan, advocate,sr.44832.

rp(co)
krd 19/8

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