IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.5324 of 2011 &
M.P.No.2 of 2011

R.Shaik Abdulla ... Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Chennai.

2.The State Government of Tamil Nadu,
Rep. by its Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records of the first respondent in Resolution No.288/2009, dated 31.07.2009 and Notice No.7, dated 23.10.2009 on the file of the first respondent in revised assessment in Bill No.1118, Ward No.084, within the jurisdiction of the respondent Corporation and quash the same and consequently direct the respondent to assess the building only as a residential building as before.

For Petitioner : Mr.S.Ramachandran

For Respondents: Mr.R.Arunmozhi
Standing Counsel

ORDER

Heard Mr.S.Ramachandran, learned counsel for the petitioner and Mr.R.Arunmozhi, learned standing counsel for the respondent Corporation.

2. In this writ petition, the petitioner, who is running a Mansion at Chepauk, Chennai, seeks to quash the resolution passed by the first respondent in Resolution No.288 of 2009, dated 31.07.2009 and consequently seeks a direction to the respondents to treat the usage of Mansion falling within the jurisdiction of the Corporation of Chennai as Residential and not as Tenant Commercial.

3. The impugned resolution was challenged before this Court in a batch of cases in W.P.Nos.4179 of 2011, etc. dated 21.09.2011 (M.Banazir Sulthana and others v. The Commissioner, Corporation of Chennai and others) and the said batch of writ petitions were disposed of by a common order dated 21.09.2011 issuing certain directions. Corporation of Chennai has preferred Writ Appeals against the said order and the Hon'ble Division Bench of this Court, vide judgment dated 21.11.2014, passed in W.A.Nos.1333 to 1342 of 2014, dismissed the Writ Appeals issuing certain directions. Operative portion and the directions of the said judgment of the Hon'ble Division Bench read as under:

> "6 The only question that arises for consideration is as to whether the re-classification of the buildings as tenant commercial instead of tenant occupation would change the classification as such or it is only a simple levy of a new rate of tax.
>
> 7 There is no dispute that the appellant assessed the buildings as tenant occupation originally and levied tax accordingly. The assessees were paying the tax at the rate prescribed for buildings shown as tenant occupation. It was, for the first time, the Corporation changed the assessment as tenant commercial by passing a resolution. By changing the nature of assessment, not only the rate of tax is changed, but, even the classification is changed. We are not in a position to accept the argument on the side of the Corporation that only the rate of tax was changed and not the assessment. The very resolution shows that the nature of assessment was completely changed. The assessees, therefore, were correct in their contention that before making such a substantial change in the classification, notice should have been issued to them. This aspect was rightly considered by the learned Single Judge and resultantly, the resolution was quashed. We do not find any reason to take a different view in the matter.
>
> 8 The appellant is given liberty to issue notices to the assessees to change the classification as tenant commercial instead of tenant occupation. They should be given reasonable time to submit their response. It is open to the Corporation thereafter to pass appropriate orders on merits and as per law.

9 The learned Senior Counsel for the assessees submitted that re-assessment on retrospective basis should not be made by the Corporation. We do not propose to make any observation either with regard to the change of assessment or with regard to the effective date of implementation of new classification. It is for the Corporation to take a decision in the matter on merits and in accordance with law.

10 The intra-Court appeals are dismissed with the aforesaid observation. No costs. Connected Miscellaneous Petitions are closed."

4. Thus, it cannot be disputed that the present Writ Petition is squarely covered by the decision referred to above. Accordingly, the Writ Petition is disposed of in terms of the directions issued by the Hon'ble Division Bench. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Commissioner,
Corporation of Chennai,
Chennai.

2.The Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai.

+1 cc to M/s.R.Arunmozhi, advocate,sr.45151.

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