IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.21745 OF 2010 &

M.P.No.1 of 2010

Murray & Co.,
rep. by its Partner Hemant .. Petitioner

vs.

1.Assistant Commissioner VI
Zonal Office VI
2, Dr.Besant Road
Ice House, Chennai 600 005.

2.Assistant Revenue Officer
Zone VI, Ward No.82
Corporation of Chennai
Besant Raod, Vivekandar House
Chennai 600 005.

3.The Commissioner
Corporation of Chennai
Rippon Buildings, Chennai. .. Respondents

PRAYER

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified mandamus, to call for the records relating to the impugned final order of the first respondent herein dated 17.8.2010 in Z.O.VI/RD.C.No.R.5/2840/2010 enclosing with an annexure Notice No.7:Revised Assessment, assessing and determining the annual value and the property tax, thereon in respect of the petitioner's property at NO.149(100), Anna Salai, Pudupet, Chennai-600 002, signed by the Assistant Revenue Officer, the 2nd respondent herein and the designated authorized officer for the Commissioner the 3rd respondent herein, from 2nd half 2001-2002 and quash the final order enclosing with an annexure viz. Notice:revised assessment and direct the 3rd respondent herein to assess and determine the annual value and the property tax thereon in accordance with the provisions of the Madras City Municipal Corporation, Act, 1919 and the settled decisions of this Court.

For Petitioner : Mr.S.Devanathan
For Respondents : Mr.K.Soundararajan

O R D E R

Heard Mr.S.Devanathan, learned counsel appearing for the petitioner and Mr.K.Soundararajan, learned Standing Counsel appearing for the respondents. With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2.In this Writ Petition, the petitioner has challenged the order dated 17.08.2010, by which the petitioner's representation/objection dated 5.8.2009 was rejected.

3.On a bare perusal of the impugned proceedings, it is evidently clear that is devoid of reasons. That apart, there is nothing produced before this Court to show that the Assistant Commissioner, Zone-6 is authorised to consider the objections in the event of any specific allegations. This is because, in the provisional notice dated 5.8.2009, it is stated that the objections will be considered by the Commissioner.

4.The petitioner had earlier approached this Court, challenging the notice issued by the respondent therein, demanding enhanced property tax for the period 2/2001-2002 to 1/2007-2008. The said Writ Petition in W.P.No.35531 of 2007, was dismissed by an order dated 09.03.2009, against which the petitioner preferred an appeal in W.A.No.1054 of 2009, which was allowed by Judgment dated 10.02.2009, with certain directions. For better appreciation, the operative portion of the Judgment is extracted herein below:

> "4.Mr.Devanathan, learned counsel appearing for the appellant submits that the occasion to approach the Tribunal will arise only after the initial proceedings are conducted in accordance with law. In the instant case, the appellant was not given any opportunity whatsosever. Mr.Bharathidasan, learned counsel appearing for the respondent Municipal Corporation does not dispute this position very seriously. He has in fact shows us the Provisional assessment notice dated 05th August 2009, which is now issued to the appellant for the same period calling for objections.
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> 5.Therefore, the appellant will now participate in the proceedings by filing objections to this provisional assessment notice. The Municipal Corporation will serve a copy of

this provisional assessment notice on the appellant directly, so that the appellant will get the period of 15 days to file their objection from the date of receipt of the notice. Thereafter, the appellant will be heard and appropriate orders will be passed. As far as the impugned order passed by the learned Single Judge and the earlier demand notice are concerned, both will stand quashed and set aside."

5.Thus, in terms of the above direction, the respondent Corporation was required to directly serve the provisional assessment notice on the petitioner and the petitioner was given 15 days time to file their objections. Thereafter, the appellant was required to be heard in person and orders will have to be passed. The respondent Corporation complied with the first limb of the direction and served the provisional notice. As stated in the provisional notice, if anybody has objections to the fixation, they can submit their objections to the Commissioner. The petitioner accordingly, has submitted a detailed objection to the Commissioner on, 24.06.2010.

6.From a reading of the objections, it is seen that it is a nine page objection, wherein factual as well as legal grounds were raised. However, inspite of the Commissioner considering the objections, the Assistant Commissioner, Zone-VI, has passed the impugned order and it is virtually 'one line order' and no reasons have been assigned as to why the petitioner's objections are not sustainable.

7.In the light of the above, the Writ Petition is allowed and the impugned order is quashed and the matter is remanded to the respondents for fresh consideration and the competent authority who has been authorised to deal with such matter shall consider the petitioner's objections dated 24.06.2010, afford an opportunity of personal hearing to the petitioner and pass orders on merits and in accordance with law. Since the petitioner has paid 50% of the impugned demand, the same shall be adjusted after orders are passed by the competent authority in terms of the above directions. No costs. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

rpa

To

1.Assistant Commissioner VI
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2.Assistant Revenue Officer
Zone VI, Ward No.82
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3.The Commissioner
Corporation of Chennai
Rippon Buildings, Chennai.

+1 CC to Mr. S. Devanathan, Advocate, Sr.No.46417
+1 CC to Mr. K. Soundararajan, Advocate Sr.No.46372

W.P.No.21745 OF 2010

RK (CO)
MD : 21/09/2016