IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.22888 OF 2010
&
M.P.No.1 of 2010

M/s Buhari Sons Pvt. Ltd.,
Chennai. ... Petitioner

Vs.

1. State of Tamil Nadu
rep. by its Secretary to Government
Municipal Administration and Water Supply Department,
Secretariat, Chennai- 600 009.

2. The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai 600 003.

3. The Assistant Revenue Officer
Corporation of Chennai, Zone VII
4th Street, Lake Area
Nungambakkam, Chennai 600 034. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, to call for the records of the Final Warrant Notice issued by the third respondent in Se.Ma.Aa,Va.Thoo/Sirappu/200-0 dated 30.09.2010 and quash the same.

For Petitioner : Mr.M.Abdul Nazeer

For Respondents : Mr.K.Soundararajan
Standing Counsel

O R D E R

Heard Mr.M.Abdul Nazeer, 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 Final Warrant Notice issued by the third respondent dated 30.09.2010, in and by which the third respondent has demanded arrears of property tax for the assessment years 1998-99 to 2010-11.

3.Though the facts appear to be little conflicted, the issue to be decided in the case lies in a very narrow compass:

(i)The petitioner earlier challenged the demand notice issued by the Corporation of Chennai, dated 09.03.2007, demanding arrears of property tax for the period from 2/1998-1999 to 2/2006-2007, at the rate of Rs.78,296/- per half year, by filing a writ petition in W.P.No.9816 of 2007. That Writ Petition was tagged along with two other connected matters, filed by another Establishment viz. Hotel Imperial, and those Writ Petitions were dismissed by a common order dated 29.07.2010. Thus, the quantum of tax payable pursuant to the demand which was issued for the said period by notice dated 09.03.2007, had become final.

(ii) The impugned demand dated 30.09.2010, is for the period from 2/1998-99 to 1/2010-2011. The question would be as to whether the respondents would be justified in demanding revised property tax, when the earlier fixation at Rs.78,296/- per half year was confirmed by this Court. This observation is made by this Court because the petitioner did not take any liberty from this Court to revise the property tax with retrospective effect over and above the rate of Rs.78,296/-, though a contention was raised before the Writ Court that a revision notice was pending.

(iii) Thus, in the absence of liberty sought for by the petitioner, those Writ Petitions were dismissed, by holding that the said amount towards property tax would be final. Therefore, upto 2/1998-1999 to 2/2006-2007, the respondents are entitled to demand the property tax more than Rs.78,926/-.

(iv) Having come to this conclusion, it has to be seen as to what would be appropriate tax for remaining period i.e. for the period from 1/2007-2008 to 1/2010-2011.

(v) So far as the fixation of property tax with effect from 1/2007-08 onwards, this Court finds that the amount fixed by the respondent Corporation at Rs.2,03,812/- per half year is a proper and correct fixation, as could be seen from the calculation appended to the Final Notice. The petitioner has been remitting the said amount to the respondent till date.

4.In the light of the above, the Writ Petition is partly allowed and it is held that the petitioner shall be liable to pay property tax at the rate of Rs.78,296/- per half year upto 2006-07 and from 1/2007-08 on wards, he shall pay at the rate of Rs.2,03,812/- per half year. If any excess amount has been paid by the petitioner, he can seek for adjustment in this regard. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rpa

To

1. The Secretary to Government
   State of Tamil Nadu
   Municipal Administration and Water Supply Department,
   Secretariat, Chennai- 600 009.

2. The Commissioner
   Corporation of Chennai
   Ripon Buildings
   Chennai 600 003.

3. The Assistant Revenue Officer
   Corporation of Chennai, Zone VII
   4th Street, Lake Area
   Nungambakkam, Chennai 600 034.

+1cc to Mr.K.Soundararajan, Advocate, S.R.No.46375
+2cc's to Mr.M.Abdul Nazeer, Advocate, S.R.No.46367

W.P.No.22888 of 2010

SKV(CO)
CA(02/09/2016)