IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:21.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25272 of 2016
and
WMP.No.21632 of 2016

Vadyar Boats Pvt. Ltd.
Represented by its Director,
Mr.R.Ananthanarayanan
50 (NP) Industrial Estate,
Ekkatuthangal, Chennai - 600 032. .. Petitioner

Vs.

1.The Corporation of Chennai,
Represented by its Commissioner,
Corporation of Chennai, Ripon Building,
Chennai - 600 003.

2.The Assistant Revenue Officer,
Revenue Department,
Zone XIII, Greater Chennai Corporation
Adyar, Chennai - 600 020. .. Respondents

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling upon the respondents to produce the records leading to the passing of the impugned demand dated 22.06.2016 passed by the 2nd respondent bearing Letter No.Z.0.13/R.D./ Spl./2016-17 and to quash the same.

For Petitioner : Mr.K.Bijai Sundar

For Respondents : Mr.Karthikaa Ashok

ORDER

Heard Mr.K.Bijai Sundar, learned counsel for the petitioner and Mr.Karthikaa Ashok, learned Standing Counsel accepting notice on behalf of the respondents. With the consent of the learned counsel on either side, the Writ Petition itself is taken up for final disposal.

2.The petitioner is a company incorporated under the Companies Act, 1956 and engaged in the business of naval architecture and boat building for several decades and they have got a factory for such purpose. The petitioner is aggrieved by a distraint notice issued by the 2nd respondent calling upon the petitioner to pay the enhanced property tax, which has been revised with effect from first half year 2009-2010 to first half year 2016-2017. The petitioner was served with a revised assessment notice dated 18.02.2015 by which the annual value of the building was revised. In the said notice, the petitioner had been given 15 days time to prefer an appeal to the Commissioner, Corporation of Chennai. The petitioner has complied with the same and presented the appeal on 12.01.2016 which has been acknowledged by the Office of the Commissioner. The appeal has not yet been disposed of and the same is pending, while so, distraint proceedings have been initiated.

3.The learned counsel for the petitioner submits that the pre-revised tax has been paid fully and there is no arrears.

4.The learned Standing Counsel appearing for the respondents submitted that an appeal against the revised assessment should be preferred before the Tax Appeal Committee and not before the Commissioner and there is a procedure to present such an appeal and the petitioner would have to remit 50% of the revised property tax for the appeal being heard by the Tribunal.

5.However, in the instant case, before passing the revised assessment order, the petitioner was not put on notice. Therefore, the revised assessment notice dated 18.02.2015 can at best be treated as a pre-assessment notice presumably for that reason the notice states that appeal preferred to the Commissioner of Corporation of Chennai, who had issued the notice. Therefore, the petitioner has rightly understood the purport of the revised assessment notice dated 18.02.2015.

6.The learned Standing Counsel for the respondents pointed out that the revised assessment notice is dated 18.02.2015 and the appeal should have been preferred within 15 days but the appeal said to have been presented by the petitioner dated 12.01.2016. This submission is flawed, because the revised assessment notice dated 18.02.2015 has been served on the petitioner only on 12.01.2016. Therefore, the appeal petition filed by the petitioner is well within the period of limitation stipulated under the notice dated 18.02.2015.

7.In the light of the above, there will be a direction to the 1st respondent to consider the petitioner's appeal petition dated 12.01.2016 and pass orders on merits and in accordance with law, after affording an opportunity of personal hearing. It would be advisable for the 1st respondent to depute a Senior

Officer to inspect the building after due notice to the petitioner before passing final orders. Till orders are passed on the appeal petition, the impugned distraint proceeding shall remain stayed. Needless to state that the petitioner shall pay the pre-revised property tax fully and there should not be no arrears.

8.With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sgl

To

1.The Corporation of Chennai,
Represented by its Commissioner,
Corporation of Chennai, Ripon Building,
Chennai - 600 003.

2.The Assistant Revenue Officer,
Revenue Department,
Zone XIII, Greater Chennai Corporation
Adyar, Chennai - 600 020.

1 cc to Mr.K.Bijai Sundar, Advocate, sr.41204
1 cc to Mr.Karthikaa, Advocate, sr.41255

W.P.No.25272 of 2016

skv co
kra 02.08.2016