IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

WP.No.25507 of 2016

& WMP.No.21866 of 2016

SAMAD & CO.,
Represented by K.Zainudeen .. Petitioner
Royapuram, Chennai-13

Vs.

1.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai.

2.The Revenue Officer,
Corporation of Chennai,
Rippon Building, Chennai.

3. The Assistant Revenue Officer-V,
Zone-V, Revenue Department,
Greater Chennai Corporation,
Basin Bridge, Chennai - 21. .. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for records relating to impugned final warrant notice dated 08.07.2016 in che.Ma.A/Va.Thu./Sirappu/2016-2017, bearing Bill No. 02598, on the file of the third respondent, and quash the same and consequently direct the respondents to levy the property tax of Rs. 25,694/- for six months as paid by the petitioner regularly.

For Petitioner : Mr.M.A.R.Pragash

For Respondents : Mrs. Karthikaa Ashok
Standing Counsel

ORDER

Heard Mr.M.A.R.Pragash, the learned counsel for the petitioner and Mrs.Karthikaa Ashok, the learned Standing Counsel, for the respondents. By consent of the learned counsel for the both sides, the writ petition itself is taken up for final disposal.

2. In this writ petition, the petitioner/company has challenged the warrant notice issued by the respondents/corporation dated 08.07.2016, demanding the huge arrears of property tax payable, with effect from II/2009-10 to I/2016-17. The petitioner's case is that, such retrospective revision has been made, without notice and without following the proper assessment procedures. The petitioner did not know about the revision of property tax and they continued to remit the property tax, at the rate of Rs.25,694/-, per half year, without default and the petitioner was shocked to receive the impugned distrait warrant and after verifying from the official website of the respondents/corporation, they found that the property tax per half year has been revised unilaterally to Rs.86,105/-, with retrospective effect from the second half year of 2009-10.

3. A counter affidavit has been filed by the third respondent, which does not specifically state that whether proper revision of assessment proceedings were followed and all that it states is, it is a general revision and notice in form No.7, dated 19.11.2015 was issued and the petitioner, without filing an appeal, did not pay the revised tax, therefore, the respondents have issued the impugned distrait demand notice.

4. The petitioner's case is that, no notice was issued prior to unilateral revision of property tax with retrospective effect and it does not specifically disclose that proper assessment proceedings were made, while effecting the revision of property tax, that too, with retrospective effect. The procedure would be that the Assessing Officer has to cause inspection of the petitioner's building, after issuing pre assessment notice to the assessee. On such receipt of pre assessment notice, the assessee ought to have been given an opportunity to the petitioner to submit their objections and after considering the objections, the final assessment order has to be passed. This procedure, which is a basic procedure, in any tax assessment proceedings, has not been followed. Therefore, this is a good ground to interfere with the impugned proceedings and remand the matter for fresh consideration.

5. Accordingly, the petitioner is directed to remit the property tax, at the rate of Rs. 25,694/-, without any default, up to date, and the third respondent is directed to cause an inspection of the petitioner's building, after notice to the petitioner and thereafter, issue a provisional assessment notice, after affording an opportunity of giving 15 days' time, for the petitioner to submit their objections and after considering their objections, the third respondent shall pass the final assessment order on merits and in accordance with law.

6. With the above observations, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Commissioner, Corporation of Chennai,
Rippon Building, Chennai.

2.The Revenue Officer, Corporation of Chennai,
Rippon Building, Chennai.

3. The Assistant Revenue Officer-V,
Zone-V, Revenue Department,
Greater Chennai Corporation,
Basin Bridge, Chennai - 21.

+1 CC to M/S.Karthikaa Ashok, Advocate SR.No.55989

CO-LRS
ths : 22.10.2016

WP.No.25507 of 2016
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