IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.34212 of 2016

M/s. Siva Compulink Limited
Rep by its Director Mr.R.Chittibabu
Old No.19, New No.32,
Cathedral Garden Road
Nungambakkam, Chennai-600 034 .. Petitioner

Vs

1.The Commissioner
Corporation of Chennai
Rippon Building
Chennai-600 003

2.The Assistant Revenue Officer
Corporation of Chennai
Zone IX, No.1, Lake Area
4th Cross street, Nungambakkam
Chennai-600 003

3.The Revenue Officer
Property Tax Department
Corporation of Chennai
Rippon Building
Chennai-600 003 ..Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records from the respondents and in particularly 2nd respondent pertaining to the impugned notice No.7 dated 16.04.2016 and quash the same and consequently direct the respondents to receive the property tax as per the property tax fixed in the year 2007, half yearly tax at Rs.64,993/- for the petitioner property at Old No.9, New No.32, Cathedral Garden Road, Teynampet, Chennai-34 with effect from 1/16-17.

For Petitioner : Mr.K.Bala Murali
for
M/s. Shivakumar and Suresh

For Respondents : Mr.T.C.Gopalakrishnan

O R D E R

Heard Mr.K.Bala Murali, learned counsel for the petitioner and Mr.T.C.Gopalakrishnan, learned standing counsel for the Corporation accepting notice on behalf of the respondents.

2. With consent of either sides, writ petition itself is taken up for disposal.

3. Petitioner who is a Limited Company incorporated under the Companies Act, owns a building at Cathedral Garden road, bearing Door No.32, Old Door No.9. They have been served with a notice in Form 7 for revision of half yearly tax with retrospective effect from second half year 2009-10. Petitioner's case is that during the year 1999 the half yearly property tax was fixed to Rs.31,168/- which the petitioner had been paying. Subsequently, in 2005 it was revised to Rs.63,192/- and the petitioner immediately submitted an objection on 05.07.2005. However, the objection was not considered. After about two years the property tax was revised to Rs.64,993/- with effect from 2007 onwards and the petitioner is said to have given an objection on 24.09.2007 and the said objection has not been considered. Nevertheless, the petitioner has paid the enhanced property tax of Rs.31,168/- per half year and subsequently in 2007 at Rs.64,993/- per half year. Therefore, at this distant of time petitioner cannot agitate those revisions as the tax has already been paid by the petitioner.

4. The present impugned order proposes revision of property tax at Rs.1,88,130/- per half year with retrospective from 2/2009-10. The learned counsel appearing for the respondents pointed out that as against the impugned notice, the petitioner can file his objections before the first respondent and the same will be considered. The submission made by the learned counsel for the respondents does not merit acceptance as such objection/appeal can only be an empty formality. Petitioner has not be been made known as to what is the basis for revision of property tax at Rs.1,88,130/- per half year that too with retrospective effect and prior to revision whether proper procedure has been followed or not, when a pre-revision procedure is required to be followed. This is mandatory in respect of tax assessment. However, it appears that no such attempt has been made by the respondent Corporation to initiate pre-revision proceedings or revision of property tax after issuing notice to the petitioner and conducting inspection. The conduct of inspection of the building is a pre-requisite for issuance of pre revision notice. This having not been done by the respondent Corporation, the impugned notice, which in effect is a demand, is held to be illegal and in violation of principle of natural justice.

5. Accordingly, the writ petition is allowed. The impugned order is set aside and the respondents 2 and 3 are directed to cause a inspection of the petitioners building after notice to the petitioner. Based on the inspection the competent authority is entitled to issue a pre-revision or pre-assessment notice and the petitioner by giving 15 days clear time to enable the petitioner to submit his objection. On receipt of the objections the competent authority of the respondent corporation shall consider the objection in a proper manner, afford an opportunity of personal hearing to him and pass orders of assessment. If still the petitioner is aggrieved by such order he can avail the other remedy available under the Chennai City Municipal Corporation Act, 1919. Till the above exercise is completed the petitioner shall continue to pay the property tax at the rate of Rs.64,993/- and there should not be any default. For the present the respondent cannot demand the arrears of enhanced tax. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

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Property Tax Department
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+1cc to Mr.T.C. Gopalakrishnan, Advocate, S.R.No.55476
+1cc to Mr.Shivakumar & Suresh, Advocate, S.R.No.55479

NR(CO)
EU(1/11/2016)