In the High Court of Judicature at Madras

Dated : 03.10.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.34858 to 34862 of 2016
& WMP.Nos.30022 to 30026 of 2016

National Company, rep.by
Managing Partner Dr.Arjun
A.Raja ...Petitioner in all the WPs

Vs

1.The State of Tamil Nadu, rep.by
the Secretary to Government,
Municipal Administration and
Water Supply Department,
Government of Tamil Nadu,
Fort.St.George, Chennai-9.

2.The Commissioner, Corporation
of Chennai, Chennai-3.

3.The Assistant Revenue Officer,
Zone IX, Corporation of Chennai,
No.1, Lake Area, 4th Cross St.,
Nungambakkam, Chennai-34. ...Respondents in all the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the second respondent relating to the impugned Final Assessment Order Nos. (i) M/09/122/16-17/1041 (ii) M/09/122/16-17/1042 (iii) M/09/122/16-17/1043 (iv) M/09/122/16-17/1044 and (v) M/09/122/16-17/1045 dated 24.8.2016 respectively, issued by the third respondent on behalf of the second respondent, quash the same and consequently direct the second respondent to levy tax prospectively and not retrospectively for the petitioner's property respectively at 467/B8 (320/B8), 467/A6 (320/A6), 467/A4 (320/A4), 467/A3 (320/A4), and 467/A5 (320/A5), Anna Salai, Teynampet, Chennai-35 in line with the Final Assessment Order No.M/09/122/15-16/0501 dated 7.3.2016.

For Petitioner : Ms.R.Maheswari
For Respondent-1 : Mr.S.Diwakar, SGP
For Respondents 2 & 3 : Mr.T.C.Gopalakrishnan

COMMON ORDER

Mr.S.Diwakar, learned Special Government Pleader accepts notice for the first respondent. Mr.T.C.Gopalakrishnan, learned Standing Counsel accepts notice for respondents 2 and 3. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. In these writ petitions, the petitioner has challenged the notices issued in Form No.10, which are final assessments, in and by which, the third respondent revised the property tax with retrospective effect from 2/2001-02.

3. The quantum of tax demanded in the final assessment orders may not be very relevant for the purpose of deciding theses cases and it would suffice to note that there is a revision of property tax done pursuant to the impugned notices with retrospective effect. The petitioner filed appeals before the Principal Judge, City Civil Court, Chennai, in M.T.A.Nos.7 to 11 of 2008 challenging the orders of the Taxation Appeal Tribunal, Corporation of Chennain in T.A.T.Nos.87 to 91 of 2007 dated 31.12.2007. The learned Principal Judge, City Civil Court, Chennai, by separate orders dated 8.12.2015, allowed the appeals, set aside the orders passed by the Taxation Appeal Tribunal and remitted the matters back to the Corporation of Chennai.

4. A reading of the orders passed by the Principal Judge, City Civil Court would show that the matters have been considered elaborately and the manner, in which, the assessment of property tax, as done by the Corporation of Chennai, was faulted and the findings of the Taxation Appeal Tribunal were also stated to be not supported by proper reasoning. Thus, when the matters have been remanded for fresh consideration in accordance with law, then the third respondent is expected to issue pre-assessment notices. After issuance of pre-assessment notices, the petitioner is entitled to an opportunity to submit their objections and only thereafter, final assessments could have been made. However, in the instant cases, straight away, final assessment notices have been issued by the third respondent.

5. Therefore, the procedure adopted by the third respondent for demanding enhancement of the property tax, that too with retrospective effect, is erroneous. From the computerized

statement, as culled out from the official website of the Corporation of Chennai, it is seen that for all the five assessments, the tax at the old rate has been fully paid and there are no arrears. Hence, before effecting revision that too with retrospective effect, the third respondent ought to have acted in accordance with law, especially when the Principal Judge, City Civil Court, Chennai has specifically remanded the matter for fresh consideration in accordance with law. This having not been done, the impugned notices of final assessment are liable to be set aside.

6. Accordingly, the writ petitions are allowed, the impugned notices are set aside and the matters are remitted back to the third respondent for fresh consideration, who shall first cause an inspection of the petitioner's building after notice to the petitioner. After inspecting the building and noting down its physical features, the pre-assessment notices shall be issued to the petitioner by giving 15 days' time to the petitioner to submit their objections. On receipt of the objections, the third respondent shall proceed in accordance with law for making a final assessment. Till the above procedure is completed, the petitioner shall continue to remit tax at the pre-revised rate without any default. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government of Tamil Nadu,
Municipal Administration and
Water Supply Department, Government of Tamil Nadu,
Fort.St.George,
Chennai-9.

2.The Commissioner,
Corporation of Chennai,
Chennai-3.

3.The Assistant Revenue Officer,
Zone IX,
Corporation of Chennai,
No.1, Lake Area,
4th Cross Street,
Nungambakkam, Chennai-34.

+1cc to Mr.T.C.GopalaKrishnan, Standing Counsel, Sr.56683
+5cc to Mr.R.Maheswari, Advocate Sr.56817
+1 cc to the Government Pleader Sr.56945

WP.Nos.34858 to 34862 of 2016 & WMP.Nos.30022 to 30026 of 2016

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srg 06/10/2016