IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.11.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.39078/2016 and WMP No.33471/2016

Mrs.D.Zeenath ..Petitioner

..vs..

1.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai-600 003.

2. The Assistant Revenue Officer,
Revenue Department,
Zonal Office-IX,
Corporation of Chennai,
No.1, Lake Area 4th Cross Street,
Nungambakkam,
Chennai-600 034. ..Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records relating to the impugned notice in Z.O.IX/R.D.C.No.Spl./2016-2017 dated 18.10.2016 issued by the 2nd Respondent and quash the same and direct the 1st Respondent to the dispose of the appeal dated 09.08.2016 within the time frame fixed by this Court.

For Petitioner : Mr.R.Syed Mustafa
For Respondents : Mr.T.C.Gopalakrishnan

ORDER

Heard Mr.R.Syed Mustafa, learned counsel appearing for the petitioner and Mr.T.C.Gopalakrishnan, learned Standing counsel who accepts notice for the respondents and with the consent on either side, the writ petition is taken up for final disposal.

2 The petitioner is before this Court, once again challenging the revision of assessment and the consequential demand of property tax in respect of the commercial building owned by the petitioner. It may not be necessary for this Court to refer to the earlier round of litigation as the petitioner

has been disputing the enhancement of the property tax made with effect from 01.03.1999 with retrospective effect. Pursuant to the orders passed by this Court, the petitioner had remitted 25% of the amount demanded in the Notice issued demanding arrears calculated upto 30.03.2007. Thereafter, pursuant to the orders passed by this Court, when the petitioner's tenant was called upon to clear the arrears of property tax, the petitioner has paid a sum of Rs.6,75,000/-. Thus, the petitioner has been challenging the orders passed by the Corporation from the year 2007 onwards and as on date, the correct property tax payable for the building is yet to attain finality. The lost of notices which was received by the petitioner in Form No.VII dated 16.04.2016. In the said notice, the previous half-yearly tax has been noted as Rs.1,09,393/- and the proposed revision is at Rs.1,96,050/- with effect from second half-yearly year 2009-2010. Objecting to the proposed revision, the petitioner had given a appeal petition to the 1st respondent as directed in Form No.VII notice dated 16.04.2016. The appeal has been acknowledged and has also been assigned Appeal No.37 of 2016. While so, a demand has been served on the petitioner calling upon him to pay a sum of Rs.30,35,764/- which is for the period upto second half-year 2016-2017 calculated at the rate of Rs.1,96,050/- per half year. As pointed out above, this half-yearly tax, i.e., Rs.1,96,050/- is a proposal in the notice dated 16.04.2016 as against which, the petitioner has filed the appeal to the 1st respondent on 09.08.2016, which is pending. Therefore, the respondent / Corporation would not be justified in demanding the property tax at the said rate as the proposed revision is yet to attain finality. In the meantime, the petitioner received a communication from the 2nd respondent dated 02.11.2016 stating that the building is proposed to be inspected on 04.11.2016 at 3.00 p.m. It is submitted by the learned counsel for the petitioner that though such notice was received , the officers of the 2nd respondent / Corporation did not visit the petitioner's building on the said date. Thus, considering the fact that the appeal petition dated 09.08.2016 is pending on the file of the 1st respondent, this Court is of the view that the impugned demand dated 18.10.2016 should be kept in abeyance subject to certain conditions.

3 Accordingly, the petitioner is directed to pay a sum of Rs.5,00,000/- [Rupees five lakhs only] towards the property tax arrears within a period of two weeks from the date of receipt of a copy of this order and if the amount is remitted, then the impugned demand shall be kept in abeyance. Simultaneously, there will be a direction to the 2nd respondent to cause inspection of the petitioner's building after issuing notice to the petitioner, fixing the date and time. After the building is inspected and relevant details are furnished, the particulars should be made available to the petitioner to enable the

petitioner to file additional grounds in the appeal before the 1st respondent, for which, another fifteen days time should be granted by the respondents. On receipt of such additional grounds to be filed by the petitioner in the appeal, the 1st respondent shall decide the appeal petition on merits and in accordance with law and based on such orders, it is open to the 1st respondent to isuse a fresh demand to the petitioner.

4 With the above direction, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai-600 003.

2. The Assistant Revenue Officer,
Revenue Department,
Zonal Office-IX,
Corporation of Chennai,
No.1, Lake Area 4th Cross Street,
Nungambakkam,
Chennai-600 034.

+1cc to M/S.R.Syed Mustafa, Advocate Sr. 64037

WP.No.39078/2016

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srg 07/12/2016