In the High Court of Judicature at Madras

Dated : 24.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.40765 of 2016 & WMP.Nos.34735 & 34736 of 2016

G.Rajarathinam ...Petitioner

Vs

1.The Corporation of Greater Chennai,
rep.by its Commissioner, Rippon
Building, Chennai-3.

2.The Assistant Revenue Officer,
Zone IX, Greater Chennai Corporation,
Nungambakkam, Chennai-34. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the first respondent pertaining to the final assessment order dated 9.9.2016 (signed on 18.10.2016) bearing No.M/09/119/16-17/0541 and the consequential demand notice dated 18.10.2016 bearing No.Z.O.IX.R.D.C.No.Spl./2016-2017 issued by the second respondent pertaining to the property at No.98 (260/262), T.V.K. Road, (Royapettah High Road), Chennai-14 and quash the same as violative of the principles of natural justice and illegal.

For Petitioner : Mr.P.Premkumar
For Respondents : Mr.T.C.Gopalakrishnan

ORDER

Mr.T.C.Gopalakrishnan, learned Standing Counsel accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is before this Court for the second time relating to the property tax assessment in respect of the commercial building owned by the petitioner.

3. Earlier, the petitioner filed two writ petitions in W.P.Nos.14298 and 14299 of 2010 challenging the final notice dated 21.5.2010 and to forbear the respondent Corporation from initiating any action against the petitioner's property contrary to the provisions of the Chennai Metropolitan City Municipal Corporation Act, 1919. The said writ petitions were disposed of by a common order dated 5.11.2014 by issuing the following directions :

> *"In the result, both the writ petitions are allowed and the impugned final assessment notice issued by the first respondent is quashed, however, with liberty to the respondents to issue a provisional pre-assessment notice, clearly indicating the grounds, on which, revision of assessment is proposed to be made, with proposed calculation and on receipt of the same, the petitioner is entitled to submit his objections and thereafter affording opportunity of personal hearing to the petitioner, the respondents shall pass final assessment order, demanding property tax. Till such time, the petitioner shall continue to remit the property tax as per the original order of*

assessment, without any default."

4. Learned counsel for the petitioner would submit that in terms of the above directions, the petitioner has been remitting the property tax as per the original assessment without default.

5. The said submission is placed on record.

6. In the said writ petitions, the direction issued to the Corporation was to issue a pre-assessment notice indicating the grounds of revision with calculation and affording an opportunity to the petitioner to submit his objections and after considering the objections, the respondent Corporation was to pass final assessment orders. However, in the instant case, though the second respondent issued a pre-assessment notice dated 18.10.2016 along with the calculation sheet, simultaneously the final assessment order has been passed. Though it is dated 9.9.2016, it has been signed by the Commissioner on 18.10.2016. Therefore, the final assessment order, having been passed without waiting for the petitioner's objections, has to be held to be in violation of the principles of natural justice. In addition to that, one more notice was issued on 18.10.2016 calling upon the petitioner to pay the arrears of property tax.

7. The learned Standing Counsel for the respondent Corporation submits that the notice dated 18.10.2016 issued by the second respondent is a general notice of demand of property tax and if there are any court stay

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orders, the assessee is entitled to ignore the notice.

8. It is seen that the petitioner sent his objections to the second respondent on 7.11.2016, which have been acknowledged by the office of the second respondent. Thus, as on date, the objections are pending.

9. The learned Standing Counsel for the respondents submits that the second respondent will consider the objections and pass appropriate orders.

10. In the light of the above, the writ petition is allowed, the final assessment order in Form 10 dated 9.9.2016, signed on 18.10.2016, is set aside and the second respondent is directed to consider the petitioner's objections dated 7.11.2016 and pass orders, after affording an opportunity of personal hearing, on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, the above WMPs are closed.

24.11.2016

Internet : Yes

To

1.The Commissioner, Corporation of Greater Chennai, Rippon Building, Chennai-3.

2.The Assistant Revenue Officer, Zone IX, Greater Chennai Corporation, Nungambakkam, Chennai-34.

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