IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.41831 of 2016 &

W.M.P.Nos.35799 & 35800 of 2016

SVIG Management Consultant (P) Ltd.
Rep. by its Director L.Sivakumar,
New No.286, Old No.264/C,
TTK Road Teynampet,
Chennai-18. .. Petitioner

Versus

1.The Government Secretary to Tamil Nadu,
Municipal Administration,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Corporation,
Corporation of Chennai,
" Ripon" Buildings,
Chennai-600 003.

3.The Assistant Revenue Office,
Revenue Department,
Zone IX, Corporation of Chennai,
No.1, Lake Area 4th Cross Street,
Nungambakkam, Chennai-600 034. .. 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 on the file of the third respondent proceedings in demand notice vide Z.O.IX/R.D.C.No.SPL/2016-17, dated 06.06.2016, and subsequent notice issued by the third respondent in his proceedings No.Z.O.IX/R.D.C.No.Assr.SPL.2016-2017, dated 21.06.2016 along with the revised assessment order issued by the third respondent dated 16.04.2016 in proceedings No.7/16-17/11902 and quash the same and consequently direct the third respondent to make revisional assessment in accordance with G.O.Ms.No.150, dated 12.11.2007 issued by the first respondent.

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For Petitioner : Mr.S.venkatesh

For Respondents : Mr.S.Diwakar
Special Government Pleader for R1

Mr.T.C.Gopalakrishnan
Standing Counsel for R2 and R3

O R D E R

Heard Mr.S.venkatesh, learned counsel appearing for the petitioner; Mr.S.Diwakar, learned Special Government Pleader, appearing for the first respondent and Mr.T.C.Gopalakrishnan, learned Standing Counsel, appearing for the respondents 2 and 3.

2. The petitioner is the owner of the building consisting of basement, ground and 5 floors and challenge in this Writ Petition is to a notice of assessment in Form No.7, dated 16.04.2016 and demands, dated 06.06.2016 and 21.06.2016.

3. The notice in Form No.7, dated 16.04.2016 states that the property tax of the petitioner building has been revised from Rs.80,045/- per half year to Rs.1,42,830/- per half year from II/2009-10. The petitioner's case is that no notice was issued to the petitioner prior to the impugned order, dated 16.04.2016. Further, no inspection of the building has been conducted and the guidelines issued by the Government in G.O.Ms.No.150, Municipal Administration and Water Supply Department, dated 12.11.2007 has not been followed.

4. The learned Standing Counsel for the respondent-Corporation submitted that the impugned notice itself provides that an appeal can be preferred to the Commissioner, Greater Chennai Corporation and the petitioner should be directed to prefer such an appeal. Further, it is submitted that since the petitioner has not preferred appeal within the time permitted, the respondent Corporation was justified in issuing the impugned demands.

5. Firstly, it has to be pointed out that prior to issuance of the revised assessment notice, dated 16.04.2016, the petitioner was not informed as to what was the basis on which the respondent proposed to revise the property tax, that too, with retrospective effect. If the petitioner has put up additional construction or there is change of usage, then there will be a reason for revision. Furthermore, increase in the value of the property will also be one more reason to increase the property tax. But, however, the revision could have been done only after inspecting the petitioner's property, which has not been done. The petitioner is not in

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arrears of property tax in terms of the pre revised rate i.e., Rs.80,045/-, which has been paid by the petitioner in full. However, the petitioner was not explained as to why demand has been made and what is the basis for the demand of Rs.12,00,170/-. Since there has been no inspection to the petitioner's building, this Court is of the view that any appeal preferred to the Commissioner of the Greater Chennai Corporation will be an appeal in futility, as the petitioner does not know as to the basis of the revision. Therefore, the provisional notice should be issued after conducting the inspection of the building. Without that, the assessment proceedings cannot be completed in a proper manner. The respondent Corporation should ensure that the correct rate of tax for the entire constructed area is fully recovered. To ensure the same in respect of the petitioner is absolutely essential. Therefore, this Court holds that any appeal to the Commissioner, Greater Corporation of Chennai against the notice dated 16.04.2016 will be an ineffective appeal and will not be a remedy to the petitioner.

6. For all the above reasons, the Writ Petition is allowed and the impugned notice is quashed. The Officials of the respondent Corporation are directed to inspect the petitioner's property after notice to the petitioner within two weeks from the date of receipt of a copy of this order. It is made clear that the petitioner should co-operate in the inspection proceedings. On such inspection, a provisional notice shall be issued to the petitioner clearly intimating as to how the respondent proposes to revise the property tax. On receipt of the notice, the petitioner is entitled to submit their objections within a period of 15 days from the date of assessment notice. On receipt of the reply / objection, the respondent Corporation shall pass appropriate orders. Till orders are passed, the petitioner shall continue to pay the property tax at the pre-revised rate i.e., Rs.80,045/- per half year without any default. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To
1.The Government Secretary to Tamil Nadu,
Municipal Administration,
Fort St. George,
Chennai-600 009.

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

+1 cc to Mr.T.C.Gopalakrishnan, Senior Counsel SR.NO. 70349/16
+1 cc to Mr.S.Venkatesh, Advocate, SR.NO. 70458
+1 cc to Govt. Pleader, High Court, Madras SR.NO. 70975

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