IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.9005 of 2017
and
W.M.P.No.9920 of 2017

Rajeev B.Mehta
Partner,
M/s.R.J.Mehta & Company,
No.32, Sembudoss Street,
George town,
Chennai - 600 001 ...Petitioner

Vs.

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

2. The Zonal Officer,
Zone-V (Royapuram)(i/c)
Greater Chennai Corporation,
No.62, Basinbridge Road,
Old Washermenpet
Chennai - 600 021. ...Respondents

Prayer: The writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the 1st respondent in the impugned Final assessment Order vide Notice no.10/16-110/23082 dated 16.03.2017 and to quash the same.

For Petitioner : Mr.V.B.R.Menon
For Respondents : Mr.T.C.Gopalakrishnan,
Standing Counsel

O R D E R

Mr.T.C.Gopalakrishnan, learned Standing Counsel takes notice for the respondents and by consent of the parties, the main writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved against the final assessment order dated 16.03.2017 passed by the 1st respondent.

3. The main grievance of the petitioner is that the impugned order of assessment was passed without considering the objections dated 11.04.2016 given by the petitioner in detail, in pursuant to the receipt of notice for revised assessment dated 19.02.2016. Therefore, it is contended that the impugned order, an outcome of non-application of mind, is unsustainable. It is further contended that since the impugned order is in a printed form, without there being any reference to the objections filed by the petitioner and discussions made thereon, the same cannot be sustained.

4. Learned counsel for the petitioner, after inviting this Court's attention to the revised assessment notice dated 19.02.2016 and the objections filed by the petitioner dated 11.04.2016, submitted that the 1st respondent has not at all adverted to any of the objections made by the petitioner, while passing the impugned order of assessment.

5. On the other hand, the learned Standing Counsel appearing for the respondents submitted that before passing the order of assessment, the petitioner was put on notice and therefore, there is no violation of principles of natural justice. He further submitted that the petitioner can approach the Appellate Tribunal and challenge the final order of assessment.

6. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent Corporation.

7. It is not in dispute that in respect of the very same property, Taxation Appellate Tribunal earlier passed an order on 20.10.2006 in an Appeal filed by the very same petitioner and fixed the half yearly tax as Rs.66,748/- with effect from the second half year/1998-99. Thereafter, on 19.02.2016, a revised assessment notice was issued to the petitioner proposing to revise the half yearly tax at the rate of Rs.2,16,595/-. It is seen that the petitioner, on receipt of such notice, made a detailed objection on 11.04.2016 and the same was received by the 1st respondent on 12.04.2016. Thereafter, the present impugned order of final assessment was passed on 16.03.2017, nearly after a year. A perusal of the final assessment order would show that it is nothing but a printed format wherein, the 1st respondent has filled up the relevant column with figures without there being any reference to the objections made by the petitioner and the findings rendered thereon. Needless to say that when the authority proposed to revise the assessment and issued a pre-assessment notice to the owner or occupier of the

subject matter property, such authority is bound to consider the objections raised, at the time of passing the final order of assessment and such consideration must explicitly and evidently be made available on the face of the reading of the order of assessment itself. If an occupier/owner has failed to make any objection, even then, it has to be stated so, in the final order of assessment. In any event, it must be a speaking order of assessment. The impugned order does not appear to be a speaking order, except to the extent that the same was issued in a printed format after filling up the blank columns with some figures. It is further to be noted that the compliance of principles of natural justice, in its strict sense, does not stop simply with an issuance of notice before passing an order of assessment alone. On the other hand, such compliance of the said principle can said to have been achieved only when the objections given after such notice are considered by the authority and a detailed findings are given on those objections while passing the final order. Otherwise, it has to be treated that the authority has not followed the principles of natural justice in its strict sense. Such being the position, I do not think that the petitioner can be driven to the Appellate Forum to file an appeal as contended by the learned counsel for the respondents.

8. Therefore, I am of the view that the matter needs to be remitted back to the 1st respondent for passing a fresh speaking order of assessment after considering the objections raised by the petitioner. Based on the objections filed by the petitioner, if the 1st respondent considers that the property has to be inspected before finalising the order, he can do so. Accordingly, the writ petition is allowed and the impugned order of assessment is set aside. Consequently, the matter is remitted back to the 1st respondent for passing a fresh order of assessment within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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

2. The Zonal Officer,
   Zone-V (Royapuram)(i/c)
   Greater Chennai Corporation,
   No.62, Basinbridge Road,
   Old Washermenpet
   Chennai - 600 021.

+1 cC to Mr. V.B.R. Menon, Advocate sr 22552
+1 CC to Mr. T.C. Gopalakrishnan, Advocate sr 22594

W.P.Nos.9005 of 2017

BR(CO)
sp/17/4