IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2017

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.7100 of 2017
&
W.M.P.No.7705 of 2017

Central Bank of India
Rep. by its Deputy Regional Managar
(General Administrative Department)
Old No.50/1, New No.38 (Earlier 48/49)
Montieth Road, Egmore
Chennai - 600 008 ... Petitioner

vs

The Commissioner
Corporation of Chennai
Ripon Building
Chennai ... Respondent

Prayer : Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the respondent pertaining to Final Assessment Notice 10/16-110/16713 dated 08.09.2016 in New Zone No.5, Ward No.61-Bill NO.03030 and Old Zone No.7-106-1091-003 and quash the same and consequently revise the property tax from Rs.85,000/- to Rs.1,19,839/- with effect from 2/2010-2011 in New Zone No.6 and No.61 and Bill No.03030 and Old 07-106-1091-003 vide in the final assessment notice 10/16-110/16713 dated 08.09.2016.

For Petitioner : Mr.N.P.Jayakumar

For Respondent : Mr.T.C.Gopalakrishnan

O R D E R

Heard Mr.N.P.Jayakumar, learned counsel for the petitioner and Mr.T.C.Gopalakrishnan, learned standing counsel appearing for the respondent.

2. The petitioner is a nationalized Bank and they are aggrieved by the notice issued by the respondent Corporation in Form No.10 dated 08.09.2016 revising the annual value of the property with retrospective effect from 2nd half year 2010-11 and demanding higher rate of property tax of Rs.1,19,839/- per half year.

3. The challenge to the impugned notice is mainly on two grounds. Firstly, by placing reliance upon the order passed in the Lok Adalat dated 18.05.2006. It is submitted that in the said Lok Adalat, the property tax was agreed to be fixed with effect from 1998-99. In the absence of a general survey, the petitioner is entitled to pay the said amount. The second ground of challenge is that when the petitioner received a notice in Form No.2 dated 09.08.2009, proposing to revise the half yearly property tax to Rs. 1,19,839/-, with effect from second half year 2001-02, the petitioner filed their objections dated 20.09.2010 stating that there has been no additional construction and there is no change in user or occupancy and there is no reason for revision of tax, which was mutually accepted before the Lok Adalat. Therefore, the petitioner requested for cancellation of the notice dated 09.08.2009, which is not clear as to what happened to the said representation and the petitioner, all of a sudden, was served with a warrant notice dated 22.04.2016 demanding arrears of property tax from 2nd half year 2006-07 to first half year 2016-17 being a sum of Rs.17,00,533/-. On the receipt of the warrant, the petitioner, through their counsel sent a notice to the Assistant Revenue Officer, Revenue Department, Zone V dated 30.05.2016, reiterating the above facts and requested for withdrawal of the warrant notice. But, the petitioner was not favoured with any reply, but was served with Form 10 dated 08.09.2016.

3. The facts narrated above will clearly demonstrate that there has been serious error in the decision making procedure adopted by the officials of the respondent and the same is flatly rejected. However, this Court, does not in principle, agree with the contention of the petitioner that the petitioner will continue to pay the property tax only at the rate of Rs.85,000/- as agreed before the Lok Adalat. The property tax is subject to revision in accordance with the provisions of the Chennai City Municipality Act, 1990. However, before doing so, proper procedure has to be followed.

The respondent in the counter affidavit has not referred to the notice in Form No.2 dated 09.08.2009. The respondent cannot rely upon the said notice as the period proposed for revision was second half year 2001-02, whereas the impugned demand is with effect from 2nd half year 2010-11. That apart, it is not clear as to how the demand notice dated 29.11.2016 was issued calling upon the petitioner's to pay arrears of property tax till second half year 2016-17. Thus, for the above reasons, the impugned notice calls for interference.

In view of the above, the writ petition is allowed and the impugned notice dated 08.09.2016 is set aside with a direction to the respondent Corporation to cause a inspection of the petitioner's building after notice to the petitioner and the Respondent Corporation shall issue a notice in Form 7 and hear the representative of the writ petitioner and then pass a speaking order finally assessing the petitioner's building to the appropriate rate of property tax. Till the above said direction is completed, the petitioner shall continue to remit Property Tax at the rate of Rs.85,000/- per half year. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/true copy/

Sub Assistant Registrar

gpa

To

The Commissioner
Corporation of Chennai
Ripon Building
Chennai

1 cc to Mr.N.P.Jayakumar, Advocate, Sr. 74856
1 cc to Mr.T.C.Gopalakrishnan, Advocate, Sr. 74908

Writ Petition Nos.7100 of 2017 &
W.M.P.No.7705 of 2017

SS (CO)
kk 27/11