IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2017

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THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.Nos.7102 to 7108 of 2017
and
W.M.Ps.No.7706 to 7712 of 2017

P.SHERIFF @ SHERFUDDIN [PETITIONER IN WP.7102/17]

H.KHADER ROSIA [PETITIONER IN WP.7103/17]

S.I.U.AMEENAL BEEVI [PETITIONER IN WP.7104/17]

S.HAJI HABEEB [PETITIONER IN WP.7105/17]

M.ABDUL HALEEM [PETITIONER IN WP.7106/17]

A.HAJI HASAN ALI [PETITIONER IN WP.7107/17]

S.I.U.ABDUL GAFOOR KHAN [PETITIONER IN WP.7108/17]

Vs.

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai 600 003. ..1st Respondent in all petitions

2. The Assistant Revenue Officer,
Revenue Department,
Zone-9, Corporation of Chennai,
No.1, Lake Area 4^{th} Cross Street,
Nungampakkam, Chennai 600 034. ..2nd Respondent in WP.NO.7102 to 7106/17

3 THE ASSISTANT REVENUE
OFFICER, REVENUE DEPARTMENT, ZONE-5,
CORPORATION OF CHENNAI, NO.45,
MC ROAD, Royapuram, CHENNAI-13 ..2nd Respondent in WP.No.7107,7108/17

Writ Petitions under Article 226 of the Constitution of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

(i)W.P.No.7102 of 2017: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 2^{nd}

Respondent pertaining to demand notice in MA-9/VA.Thu.Na.Ka.No.R1/ Special/2017 dated 25.01.2017 and quash the same as illegal, arbitrary and non est in law and consequently direct the Respondents to assess the petitioner "Mansion" property as "Tenant Occupation" and not as "Tenant commercial" and accordingly fix rate of property tax for the property in accordance with the dictum laid down by this Court in W.P.No.4179 of 2011, etc., batch dated 21.09.2011.

(ii) W.P.No.7103 of 2017:issue a writ of certiorarified mandamus or any other appropriate writ order or direction, to call for the records of the 2nd respondent pertaining to demand notice in Z.O.IX/ R.D.C. No.Spl/2016- 2017 dated 07.06.2016 and quash the same as illegal, arbitrary and non est in law and consequently direct the Respondents to assess the petitioner "Mansion" property as "Tenant Occupation" and not as "Tenant commercial" and accordingly fix rate of property tax for the property in accordance with the dictum laid down by this Honourable Court in W.P. No.4179 of 2011, etc., batch dated 21.09.2011

(iii) W.P.No.7104 of 2017:issue a writ of certiorarified mandamus or any other appropriate writ order or direction, to call for the records of the 2nd respondent pertaining to demand notice in M.A-9/ VA.Thu. Na.Ka. No.R1/ Special 2017 dated 25.01.2017 and quash the same as illegal, arbitrary and non est in law and consequently direct the Respondents to assess the petitioner Mansion property as Tenant Occupation and not as Tenant commercial and accordingly fix rate of property tax for the property in accordance with the dictum laid down by this Honourable Court in W.P. No.4179 of 2011, etc., batch dated 21.09.2011

(iv) W.P.No.7105 of 2017:issue a writ of certiorarified mandamus or any other appropriate writ order or direction, to call for the records of the 2nd respondent pertaining to demand notice in M.A-9/ VA.Thu. Na.Ka. No.R1/ Special 2017 dated 23.01.2017 and quash the same as illegal, arbitrary and non est in law and consequently direct the Respondents to assess the petitioner Mansion property as Tenant Occupation and not as Tenant commercial and accordingly fix rate of property tax for the property in accordance with the dictum laid down by this Honourable Court in W.P. No.4179 of 2011, etc., batch dated 21.09.2011

(v)W.P.No.7106 of 2017: issue a writ of certiorarified mandamus or any other appropriate writ order or direction, to call for the records of the 2nd respondent pertaining to demand notice in Z.O.IX/R.D.C. No. Spl./2016-2017 dated 07.06.2016 and quash the same as illegal, arbitrary and non est in law and consequently direct the Respondents to assess the petitioner Mansion property as Tenant Occupation and not as Tenant commercial and accordingly fix rate of property tax for the property in accordance with the dictum laid down by this Honourable Court in W.P. No.4179 of 2011, etc., batch dated 21.09.2011

(vi)W.P.No.7107 of 2017: issue a writ of mandamus directing the respondents to collect property tax for the petitioner mansion property bearing No.15/8, Thajudeen Khan Badur Street, Chepauk, Triplicane, Chennai 5, situated in Zone No.6, Ward No. 080 having assessment No. 03948, by treating the property under classification of tenant occupation in accordance with the dictum of this Honourable Court made in W.P. No. 4179 of 2011 batch dt. 21.09.2011

(vii) W.P.No.7108 of 2017:issue a writ of mandamus directing the Respondents to collect property tax for the petitioner mansion property bearing No.35/18, Gulam Murthasa Street, Chepauk, Triplicane, Chennai 5, Situated in Zone No. 6, Ward No. 080 having Assessment No. 0252, by treating the property under classification of tenant occupation in accordance with the dictum of this Honourable Court made in W.P. No. 4179 of 2011 batch dated 21.09.2011.

For Petitioner : Mr.B.Vijay in all W.Ps.

For Respondents : Mr.P.V.Selvakumar in all W.Ps.

COMMON ORDER

These writ petitions have been filed on the premise that the classification made without following the procedure as held by this Court earlier, confirmed by the Division Bench is contrary to law and so is the case of the subsequent action.

2.In the counter affidavit filed by the respondents, it has been stated as follows:

> "8.I respectfully submit that based on the council resolution, notice was published in Gazette No.39 dated 30.09.2015 and also published in local daily news paper i.e. Daily Thanthi and Indian Express on 13.08.2015 and the public objections, if any, were also called for. Being no objection received by the Chennai Corporation authorities, based on the Hon'ble High Court order and the Special Officer's council resolution No.206/2017 dated 28.03.2017, buildings used for mansion, service apartments, guest house and

lodges are treated as "Tenant Commercial" and property tax was levied since 1/2011-2012 as per Section 137B of Municipal Act.

9.I respectfully further submit that the resolution passed by the Special Officer in No.206/2017 dated 28.03.2017 as per Section 137B and a circular Va.Thu.Na.Ka.No.G1/6910/2009 dated 08.04.2017 issued by the Revenue Department of Chennai Corporation in order to assess the first half year tax assessment from 1/2011-12 for mansion, service apartments, guest house and lodges, which are all used as non-residential by the tenants, are to be treated as "Tenant Commercial" and property tax shall be levied accordingly."

3.Learned counsel appearing for the petitioners would submit that in view of the above averments made in paragraphs 8 and 9, nothing survives for adjudication in these writ petitions and therefore, liberty may be given to challenge the aforesaid proceedings.

4.In view of the above, the writ petitions are disposed of with liberty to the petitioners to challenge the proceedings including the circular dated 08.4.2017. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

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To:

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai 600 003.

2. The Assistant Revenue Officer,
Revenue Department,
Zone-9, Corporation of Chennai,
No.1, Lake Area 4^{th} Cross Street,
Nungampakkam, Chennai 600 034.

3 THE ASSISTANT REVENUE
OFFICER, REVENUE DEPARTMENT, ZONE-5,
CORPORATION OF CHENNAI, NO.45,
MC ROAD, Royapuram, CHENNAI-13

+1cc to Mr.P.V.Selvakumar,Advocate sr.41742

+3cc to Mr.B.Vijay,Advocate sr.41799

W.P.Nos.7102 to 7108 2017

AD(co)
ss(5/7/2017)