IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.07.2017

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THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P. No.10837 of 2017 &
WMP.NO.11766 of 2017

B. Raghava, .. Petitioner

Vs

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

2. The Assistant Revenue Officer,
   Zone -IX, Greater Chennai Corporation,
   No.1, Lake Area, 4th Cross Street,
   Nungambakkam, Chennai -600 034. ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the 2nd respondent relating to the order passed in Notice No.10, Final Assessment dated 17.3.2017, thereby revising the property tax with reference to the petitioners' building at 15(7/1), Murrays Gate Road, Teynampet, Chennai - 600 018, with retrospect effect from 11/2009-10, quash the same.

For Petitioner : M/s.V.Sanjeevi

For Respondents : Mr.T.C.Gopalakrishnan
R1 & R2

ORDER

Heard Mr.V.Sanjeevi, learned counsel appearing for the petitioner and Mr.T.C.Gopalakrishnan, learned Standing Counsel appearing for the respondent, Corporation. With the consent on either side, the Writ Petition itself is taken up for final disposal.

2. The petitioner is aggrieved by a notice issued by the respondent purporting to be a final notice in form No.10, dated 17.03.2017, revising the annual value of the building to Rs.5,52,748/- from the assessment year II/2009-10.

3. The learned counsel for the petitioner, on instructions, would submit that the petitioner has no objection to pay the revised property tax from the current year onwards, but he is aggrieved by the retrospective revision. It is contented that there is no change in the plinth area, except for an area of 770 Sq.ft, which has been ***reclassified from tenant occupation to owner occupation** the building has remained the same as all these years and there is absolutely no justification to revise the annual value of the building, that too, with retrospective effect.

4. In the counter affidavit filed by the the Assistant Revenue Officer, Zone-IX, Corporation, Chennai, it is stated that on verification of the plinth area and the usage of the building, it is found that the building was under assessed and therefore it was re-assessed. The re-assessment of a building to tax, pre-supposes an inspection. Unless an inspection is conducted, the authority will have no record to show that there is an increase in the plinth area or regard to the change of user of the building. The counter affidavit does not state on what date the building was inspected nor does the impugned notice furnishes those details.

5. Therefore, this Court can safely conclude that there was no inspection conducted on the building by the officials of the respondent Corporation after notice to the petitioner. If such is the case, then obviously a demand could not have been raised on the petitioner with retrospective effect. Therefore, this Court is of the view that the respondent cannot enforce the impugned demand retrospectively, but can enforce the demand prospectively as the petitioner is agreeable to pay tax prospectively. For the demand raised retrospectively, for the period from 2nd half year 2009-10, the petitioner is directed to treat the impugned notice, as a show cause notice and submit their detailed objection including documents and photographs in support of their claim, after which the first respondent on

receipt of the objections, shall direct inspection to be conducted on the building, after notice to the petitioner and in the presence of the petitioner or his authorised representative. On receiving the inspection report, the first respondent shall afford an opportunity of personal hearing to the petitioner ***issue notice** and re-determine the annual value of the building. The above exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of accordingly. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

***Amended as per order**
dated 26/07/2017 made in
WP.10837/17
-s/d-
Assistant Registrar(CSIII)
dt:31/07/2017

//True Copy//

Sub Assistant Registrar

pbn

To

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

To be Substituted to the order already despatched on 24/7/17

2 . The Assistant Revenue Officer,
Zone -IX, Greater Chennai Corporation,
No.1, Lake Area, 4th Cross Street,
Nungambakkam, Chennai -600 034.

+1cc to M/s.T.C.Gopalakrishnan, Advocate, S.R.No.10837/17
+1cc to M/s.V.Sanjeevi, Advocate, S.R.No.46238/17
+1 cc to Mr.V.Sanjeevi Advocate sr 52806/17

W.P. No.10837 of 2017

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