

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.Nos.3143 and 3144 of 2017
and
W.M.P.Nos.3070 and 3071 of 2017

M/S.R.P.Rajarajan Associates
Rep. by its Managing Partner
R.P.Rajarajan
No.105, Dr.Radhakrishnan salai
Mylapore
Chennai-600 004.

... Petitioner in both WPs

Vs.

1.The Commissioner
Corporation of Greater Chennai
Ripon Buildings
Chennai-600 003.

2.The Assistant Revenue Officer
Revenue Department
Zonal Office IX
Corporation of Chennai, No.1
Lake area 4th cross street
Nungambakkam, Chennai-600 034.

... Respondents in both WPs

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorarified Mandamus, to call for the records of the 2nd respondent pertaining to impugned demand notice dated 13.01.2017 in Ma.Aa-9/VA.Thu.Na.Ka.No.R1/Special/2017 regarding No.103, P.S.Sivasamy salai, Mylapore, Chennai-600 004 (mentioned as 103 Dr.Radhakrishnan salai in the impugned order) in W.P.No.3143 of 2017 regarding No.105, Dr.Radhakrishnan Salai, Mylapore, Chennai-04 and quash the same and further direct the 2nd respondent to hold proper enquiry in accordance with law.

For Petitioner : Mr.V.Anand

For Respondents : Mr.T.C.Gopalakrishnan

COMMON ORDER

1. Issue notice. Mr.T.C.Gopalakrishnan, accepts notice on behalf of the respondents.

1.1 With the consent of counsels for the parties, the writ petitions are taken up for hearing and final disposal.

2.The record shows that, this is the second round of litigation, which has been undertaken by the petitioner.

2.1 The writ petitions filed in the first round pertained to demand notices dated 24.10.2016. The said writ petitions, which were numbered as: W.P.Nos.37973 and 37974 of 2016, were disposed of, by a common order, dated 02.11.2016. The operative directions, which were passed by this Court, are as follows:

"6. Thus, considering the submissions made and after hearing the parties, this Court is of the view that an opportunity should be granted to the petitioner to putforth their objections. Since the revisions effected and the consequential demands are with retrospective effect from II/2009-10, the petitioner is granted an opportunity to putforth their objections, they should clear the entire arrears of property tax at the pre-revised rate i.e. Rs.1,95,640/- and Rs.88,490/- respectively per half year. Subject to the said condition, the following direction is issued:

"The petitioner-Firm is directed to submit their objections to the notices in Form No.7 dated 30.09.2016, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and pass speaking orders on merits and in accordance with law. It is open to the respondent to conduct an inspection of the building, after issuing notice to the petitioner, before passing final orders."

3. Pursuant to the order of this Court, the petitioner filed its objections, which were received by the respondents on 14.12.2016. These objections are appended at pages 12 - 13 of the typed set of documents.

3.1 It appears that, the impugned notices, both of which, are dated 13.01.2017 demanded tax from the petitioner, without disposing of the objections, as was directed by this Court, vide order dated 02.11.2016.

3.2 The amounts demanded, vis-a-vis the petitioner, are a sum of Rs.6,32,572/- and Rs.10,42,640/-. The sum of Rs.6,32,572/- is demanded vis-a-vis the property described as: "103(103),

Dr.Radhakrishnan road, Mylapore, Mylapore, Chennai-600 004", while a sum of Rs.10,42,640/- is demanded vis-a-vis the property described as: "105(58/2), Dr.Radhakrishnan road, Mylapore, Mylapore, Chennai-600 004".

3.3 The fact these very demands were the subject matter of the earlier writ petitions is evident upon perusal of para 2 of the order dated 02.11.2016, passed in the aforementioned writ petitions.

4. Mr.T.C.Gopalakrishnan, who appears for the respondents, says that, a perusal of demand notices dated 13.01.2017, impugned in the captioned writ petitions would show that they state in no uncertain terms that: if there is an order of stay passed by a Court with regard to payment of arrears, then, the said notices should be ignored.

4.1 Therefore, in line with the said annotation, learned counsel says that in view of what is stated in the impugned notices, the petitioner, need not entertain any apprehension, if, what is portrayed on his behalf is correct, which is that the objections filed, have not been disposed of.

5. I have heard the learned counsel for the parties and perused the records.

6. To my mind, given the circumstances obtaining in the case the best way forward would be to dispose of the writ petitions with the following directions:

(i) In case, the objections, filed by the petitioner, are not disposed of, as directed by this Court vide order dated 02.11.2016, then, pending disposal of the objections, there shall be a stay against enforcement of the demand reflected in the impugned notices, dated 13.01.2017.

(ii) Once the respondents dispose of the objections in line with the directions issued by the Court vide order dated 02.11.2016, a copy of the order passed will be supplied to the petitioner.

7. Needless to say, the respondents will pass a speaking order.

8. Resultantly, the connected pending applications are also closed. There shall, however, be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kj

To

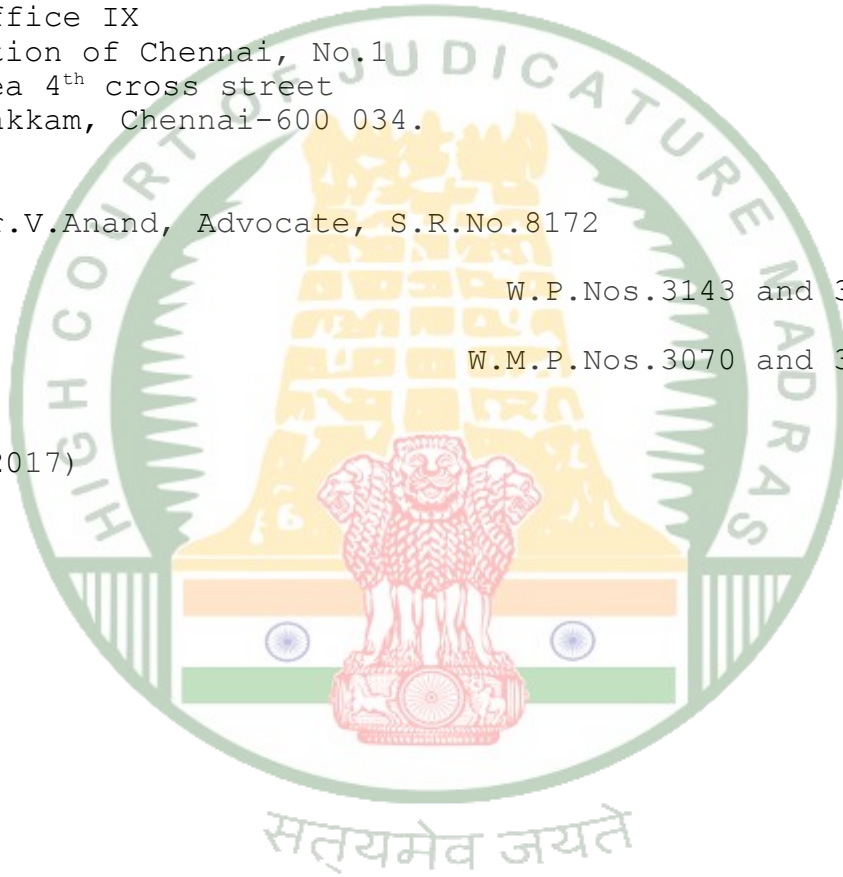
1.The Commissioner
Corporation of Greater Chennai
Ripon Buildings
Chennai-600 003.

2.The Assistant Revenue Officer
Revenue Department
Zonal Office IX
Corporation of Chennai, No.1
Lake area 4th cross street
Nungambakkam, Chennai-600 034.

+1cc to Mr.V.Anand, Advocate, S.R.No.8172

W.P.Nos.3143 and 3144 of 2017
and
W.M.P.Nos.3070 and 3071 of 2017

NM(CO)
CA(10/02/2017)



WEB COPY