IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2017

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

W.P.No.20862 of 2017

1. R.P.Vasant
2. R.P.Kalpana ... Petitioners

Vs.

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Park Town,
Chennai-600 003.

2. The Assistant Revenue Officer,
Zonal Office-5,
No.61, Basin Bridge Road,
Chennai-600 021. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to consider the petitioners' representation, dated 31.03.2017 and pass orders on merits and in accordance with law in respect of refund of excess amount paid by the petitioners along with interest accrued thereon as per the order in T.A.T.No.8/17 dated 27.03.2017 on the file of the Taxation Appeals Tribunal.

For Petitioners : Mr.B.Dayaalan
For Respondents : Mr.T.C.Gopalakrishnan

ORDER

Heard Mr.B.Dayaalan, learned counsel appearing for the petitioners and Mr.T.C.Gopalakrishnan, learned counsel appearing for the respondents.

2. With the consent of the learned counsel on either side, the writ petition is taken up for final disposal at the time of admission itself.

3. The petitioners are the owners of the building at Old No.3, New No.5, Athipattan Street, Chindadripet, Chennai-600 002. The property was assessed to tax by the respondent Corporation and aggrieved by the said order, the petitioners preferred an appeal before the Taxation Appeals Tribunal in TAT

No.8/2017. The Tribunal, by order dated 27.03.2017, partly allowed the appeal filed by the petitioners. It was held by the Tribunal that the petitioners are liable to pay the half yearly tax at the rate of Rs.8,400/- with effect from 2/2010-2011 and prior to that period, they are liable to pay the pre-revised tax of Rs.7,914/- only. The Tribunal further ordered that the petitioners are entitled for the refund of excess amount, which was paid by them to the respondent or the above excess amount may be adjusted in future payment of tax. Based on the said order, the petitioners have submitted a representation to the first respondent on 31.03.2017, which was sent through registered post with acknowledgment due and was received by the office of the first respondent on 19.04.2017, as could be seen from the postal acknowledgment card.

4. In the light of the order passed by the Tribunal, issuing direction either to refund or adjust the excess amount paid by the petitioners, the respondent Corporation are bound to comply with the same.

5. In the instant case, it appears that the petitioners sought for permission from the respondent Corporation for demolition of the building on the ground that it is 85 years old building and is unfit for occupation. This application has been favourably considered and an order has been passed as early as on 04.02.2009. Therefore, the question of adjusting the excess amount remitted by the petitioners is not feasible, as the building is to be demolished and reconstructed. In such view of the matter, it is a fit case, wherein, the respondent Corporation has to consider the same for refund of the excess amount. Since the representation given by the petitioners has not been considered so far, the petitioners are before this Court.

6. In the light of the above facts and circumstances, there shall be a direction to the first respondent to consider the representation of the petitioners dated 31.03.2017, taking note of the order of the Tribunal dated 27.03.2017 passed in TAT No.8/2017 and pass appropriate orders, on merits and in accordance with law, for the purpose of refund of excess amount as sought for by the petitioners, if there is no other legal impediment. The said exercise shall be completed by the first respondent within a period of three weeks from the date of receipt of a copy of this order. The petitioners are directed to send a copy of the representation dated 31.03.2017 along with a copy of this order to the first respondent for effective compliance of the direction issued by this Court.

7. With the above directions, the writ petition is disposed of. No Costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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To

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Park Town,
Chennai-600 003.

2. The Assistant Revenue Officer,
Zonal Office-5,
No.61, Basin Bridge Road,
Chennai-600 021.

+1cc to Mr.B.Dayaalan, Advocate in sr.no.55837

W.P.No.20862 of 2017

NR 05/09/2017