

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2017

CORAM:

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

Writ Petition No.21202 of 2017
and WMP No.22100 of 2017

Gayithri Punjabi

... Petitioner

...vs...

1. The Assistant Revenue Officer,
Revenue Department,
Zonal Office - IX,
Greater Chennai Corporation,
No.1, Lake Area, 4th Cross Street,
Nungambakkam, Chennai - 34

2. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai - 3

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the first respondent, dated 08.06.2017 in Letter No.Z.O.IX/R.D.C.No.Spl/2017-18, relating to the petitioner's property bearing No.58/72 Poes Garden, Teynampet, Chennai - 86 and to quash the same.

For Petitioner : Dr. P.Vasudevan

For Respondents : Mr. K.Soundara Rajan

O R D E R

Heard Dr.P.Vasudevan, learned counsel appearing for the petitioner and Mr. K.Soundara Rajan, learned Standing Counsel, who accepts notice for the respondents. With consent of the learned counsel for both sides, the writ petition itself is taken up for final disposal, at the admission stage itself.

2. The petitioner owns a property at Door No.58, Poes Garden, Cathedral Road, Teynampet, Chennai - 86, and she is aggrieved by the notice of demand issued by the first respondent dated 08.06.2017, calling upon the petitioner to pay a sum of

Rs.2,06,658/- towards the property tax for the period up to the first half year 2017-18.

3. The property in question was initially a commercial property and assessed to tax at commercial rate namely Rs.1,11,145/-. The petitioner's case is that, in the year 2011, the property was converted as residential and therefore, the property tax has to be reduced. The fact remains that such intimation was not given by the petitioner to the Corporation at the relevant time, namely, in 2011. When the petitioner brought it to the notice of the respondents / Corporation in 2015-16, the half-yearly tax was reduced to Rs.43,185/-. According to the petitioner, this reduction should have been given from the year 2011.

4. With these facts, the petitioner has approached the Tamil Nadu Taxation Appellate Tribunal, by filing an Appeal Petition, on 25.05.2017, which was sent through Speed Post. It is not known whether the Tribunal has numbered the appeal or not. But the petitioner would state that, along with the appeal, they remitted 25% of the enhanced property tax and the matter is being contested before the Appellate Tribunal. That apart, the petitioner has also contested the fixation of the reduced property tax at Rs.43,185/- by filing a separate appeal and paying 50% of the enhanced tax. Thus, the petitioner would state that there is an excess payment of Rs.6,26,745/- and therefore, there is no justification for the respondents / Corporation to issue the impugned demand.

5. The learned counsel appearing for the respondents, on instructions from the first respondent, would submit that it is true that the petitioner has paid certain amount in excess and it has to be verified whether the bills have been taken on file by the Appellate Tribunal.

6. Thus, considering the above factual position, which is not disputed by the first respondent, the impugned demand shall be kept in abeyance till a decision is arrived at by the Taxation Appellate Tribunal on the appeal filed by the petitioner. The petitioner is directed to appear before the Appellate Authority, through her authorized representative, along with the copy of this order, to enable the Appellate Tribunal to take up the matter (Appeal) and decide the same on merits and in accordance with law within a period of three weeks from the date on which the petitioner appears before the Tribunal.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected CMP is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

srk

To

1. The Assistant Revenue Officer,
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2. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai - 3

+1cc to Mr.K.Soundararajan, Advocate Sr. 57579

+1cc to Dr.P.Vasudevan, Advocate Sr. 57534

सत्यमेव जयते

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KK(CO)
VR(04/09/2017)

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