IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.21601 of 2017
and W.M.P.Nos.22585 and 22586 of 2017

P.J.Sudhakar ... Petitioner

vs

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

2.The Zonal Officer,
Zone - XI (Ward No.144),
Corporation of Chennai,
Chennai. ... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for records relating to the first respondent's Notice dated 04.08.2017, to quash the same and to consequently direct the respondents to revise and re-fix the tax tariff as applicable to the Industrial Establishment (Small Scale Industry).

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.T.C.Gopalakrishnan

O R D E R

Heard. Mr.L.Chandrakumar, learned counsel for the petitioner and Mr.T.C.Gopalakrishnan, learned standing counsel accepting notice on behalf of the respondents corporation. With the consent on either side, the writ petition itself is taken up for disposal.

2.The petitioner is aggrieved by the distrain notice issued by the second respondent calling upon the petitioner to pay a total sum of Rs.11,42,892/- being the proper property tax payable for the petitioner's industrial establishment. The petitioner's property is situated in D.No.1 and 2/A, VGP, Amudha Nagar, Madurovayal, Chennai - 600 095. Earlier the property was under the jurisdiction of the Madurovayal Municipality and the petitioner has been assessed to tax from the year 1996 - 1997 onwards. So far as the Municipality is concerned, the classification of property are broadly under three heads, namely Residential, Non - Residential and Industrial.

3.The petitioner's property, being an industrial shed, used by the petitioner for manufacturing activities, was classified under the industrial tariff and the petitioner had been paying the property tax regularly. After the property was annexed to the jurisdiction of Greater Chennai Corporation, the second respondent issued notice in Form No.7 dated 27.12.2014 by which the respondent proposed to revise the property tax at the rate of Rs.1,26,005/- per half year with retrospective effect from first half year 2008 - 2009. The petitioner filed a writ petition before this Court in W.P.No.26575 of 2015 challenging the said notice dated 27.12.2014. The said writ petition was allowed and the demand notice was quashed and the matter was remanded to the respondents Corporation to pass appropriate orders afresh on merits and in accordance with law within a time frame after affording an opportunity of personal hearing to the petitioner. In the mean time, the respondents were restrained from taking any coercive action against the petitioner to collect tax amount pursuant to the demand notice. After the writ petition was disposed of, the petitioner submitted a representation on 05.02.2016 raising various contentions and specifically requesting the respondents to inspect the petitioner's factory and to asses the petitioner's factory as an Industrial Shed with effect from Assessment year 2015 - 2016. However, the second respondent did not consider the said representation though it has been received in the office of the second respondent on 05.02.2016 as could be seen from the date seal affixed in the representation. However, the petitioner has been issued with a notice of final assessment in Form 10 demanding Property Tax at the rate of Rs.1,15,380/- with retrospective effect from second half year 2011 - 2012.

4. It is not in dispute that the respondents Corporation has been adopting the tariff fixed by the respective Municipalities prior to the properties being annexed to their jurisdiction. If such is the case, the petitioner cannot be liable to pay property tax fixed for non residential premises by the Chennai Corporation and they have to necessarily adopt the Industrial Tariff adopted by the erstwhile Municipality. Therefore the impugned notice as well as the final assessment notice dated 31.03.2016 have to be held to be without jurisdiction.

5.Accordingly, the writ petition is allowed and the final assessment and the impugned notice dated 31.03.2016 and the consequential impugned notice dated 04.08.2017 are quashed and the matter is remanded to the second respondent with a direction to inspect the petitioner's building and issue a provisional notice assessing the petitioner's property for which the petitioner will be entitled to submit their objections and after submitting their objections, the final assessment order shall be passed. Till the above direction is complied with, the petitioner shall continue to pay the property tax as fixed by the Maduravoyal Municipality and the respondent shall reckon Rs.5 lakhs paid by the petitioner towards the property tax liability. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Zonal Officer,
Zone - XI (Ward No.144),
Corporation of Chennai,
Chennai.

+ 1 cc to Mr.L. Chandrakumar, Advocate Sr.58668
+ 1 cc to Mr.T.C. Gopalakrishnan, Advocate SR.58131

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PPA(CO)
EU 7.09.17