IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.32424 of 2017
and W.M.P.No.35713 of 2017

M/s.Apollo Hospital Enterprise Ltd.,
Rep. by its Vice President - Finance &
Company Secretary S.M.Krishnan,
New No.201, Old No.154,
Periyar EVR Salai,
Kilpauk, Chennai - 600 010. ... Petitioner

Vs.

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

2.The Zonal Officer,
Zone-VIII (Ward No.103),
Corporation of Chennai, Chennai. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the first respondent's order of demand dated 22.11.2017 enclosing the Notice No.7/17-18/41723 dated 17.11.2017, to quash the same and to afford an opportunity before any revision of tax and to consequently direct the respondents to continue to accept the previous assessed tax for the petitioner's premises.

For Petitioner : Mr.L.Chandrakumar
For Respondents: M/s.Karthikaa Ashok

O R D E R

Heard Mr.L.Chandrakumar, the learned counsel appearing for the petitioner and M/s.Karthikaa Ashok, the learned counsel appearing for the respondents.

2.The petitioner who runs a hospital has put up construction consisting of ground + 5 floors and the first respondent has proposed to revise the property tax assessment with retrospective effect from I/2012-2013. The petitioner has been given an opportunity to submit their objections to the proposed increase and a notice in Form No.7 dated 17.11.2017 has been issued. In terms of the said notice, the petitioner can file an appeal to the Commissioner, Greater Chennai Corporation within 15 days. It is not clear as to what date the said notice was served on the petitioner, but well before the expiry of 15 days period, a demand notice dated 22.11.2017 has been issued which is impugned in this writ petition. When the petitioner has been directed to submit their appeal against the proposed enhancement of property tax, that too, with a retrospective effect even before the expiry of period of 15 days granted to the petitioner, demand cannot be issued to the petitioner to pay the proposed revised property tax. Therefore, the impugned demand dated 22.11.2017 is pre-mature and liable to be set aside.

3.Considering the fact that the petitioner building is a non-residential building, a hospital, the respondent Corporation is bound to assess the appropriate rate of tax. It appears that before issuance of Form No.7 notice, no inspection was conducted on the building. Therefore, the respondent Corporation should necessarily conduct an inspection and afford an opportunity to the petitioner to submit their objections and then proceed to finally determine the revised property tax.

4.For the above reasons, the writ petition is partly allowed and the demand notice dated 22.11.2017 is set aside. The respondent Corporation is directed to cause an inspection of the petitioner's building after notice to the petitioner and prepare an inspection report and furnish a copy of the report to the petitioner and on receipt of the copy of the inspection report, the petitioner is directed to submit their objections to the notice in Form No.7 dated 17.11.2017 within a period of 15 days from the date of receipt of a copy of the inspection report. After the objections are submitted, the respondent is directed to afford an opportunity of personal hearing to the authorized representative of the petitioner and take a final decision on the property tax that has to be fixed for the petitioner building and from which period.

5.The petitioner has contended that the retrospective revision of property tax is not permissible. Learned counsel for the respondents would submit that the revision is well within the powers of the respondent Corporation. In any event, this issue also can be considered by the respondent Corporation while taking a decision on the petitioner's objections.

6.With the above directions, the writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

cse

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

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

2.The Zonal Officer,
Zone-VIII (Ward No.103),
Corporation of Chennai, Chennai.

+1cc to Mr.L.Chandrakumar, Advocate Sr.No.88857
1cc to Mr.Karthikaa Ashok, Advocate SR.No.89585/17

sj(co)
sm:9.1.2018