In the High Court of Judicature at Madras

Dated : 05.9.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.23751 of 2017

G.Arumugam ...Petitioner

Vs

1.The Commissioner of Corporation
Corporation of Chennai, Chennai-3.

2.The Revenue Officer, Revenue
Department, Corporation of
Chennai, Chennai-3.

3.The Assistant Revenue Officer
Zone-12, Corporation of Chennai,
No.1, New Street, Alandur,
Chennai-16. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the direction, a Writ of Mandamus to forbear the respondents from taking any coercive steps to collect the revised tax pursuant to Provisional Notice No.6 in the proceedings of the Corporation of Chennai, dated 01.2.2017 made in Notice No.6-16-17-70636 (Order No.N/12/164/16-17/1162 dated 01.2.2017) issued by the third respondent in respect of the property at Door No.1/19, 4th Main Road, Nanganallur, Chennai-61 before passing final orders on the appeal dated 15.2.2017 submitted by the petitioner.

For Petitioner : Mr.N.Santhosh Nagarajan
For Respondents: Mrs.Karthika Ashok

ORDER

Mrs.Karthika Ashok, learned Standing Counsel accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner seeks for the issuance of a Writ of Mandamus to forbear the respondents from taking any coercive steps to collect the revised tax pursuant to Provisional Notice No.6 dated 01.2.2017 made issued by the third respondent in respect of the property at Door No.1/19, 4th Main Road, Nanganallur, Chennai-61 before passing final orders on the appeal dated 15.2.2017 submitted by the petitioner.

3. The petitioner presented the said appeal against the provisional assessment dated 01.2.2017 contending that the proposed provisional assessment is exorbitant.

4. Admittedly, no speaking order has been passed and communicated to the petitioner on the appeal petition. The respondent Corporation seeks to non suit the petitioner by contending that though the affidavit filed in support of this writ petition was signed on 21.8.2017, the writ petition was filed before this Court only on 30.8.2017 and in the meantime, the petitioner was served with the final assessment notice in Form 10 and he also paid the revised property tax.

5. The learned counsel for the respondents has also produced a copy of the note file and referred to the proceedings of the Assistant Revenue Officer dated 18.8.2017 and submitted that the appeal presented by the petitioner has been rejected.

6. On a perusal of the said communication, it is seen that none of the grounds raised by the petitioner in his appeal petition has been dealt with and the said order is a non speaking order.

7. The respondents would further take a stand that they have already communicated Form 10 notice namely the final assessment proceedings and the petitioner has paid the revised property tax.

8. The petitioner's specific stand is that on account of pressure exerted on the petitioner and he, being a person more than 80 years of age not able to withstand the pressure, without prejudice to his rights, has remitted the property tax.

9. Before a final assessment is made and notice in Form 10 is issued, the objections raised by the assessee should be considered and a speaking order should be passed and it is only thereafter the final assessment notice could have been issued. It appears that a copy of the communication dated 18.8.2017 has not been forwarded to the petitioner, but only the communication dated 28.8.2017 along with Form 10 notice. After considering the factual position, it is clear that there is a clear procedural infirmity committed by the third respondent in the process of assessing the petitioner's property for tax.

T.S.SIVAGNANAM,J

RS

10. Accordingly, the writ petition is disposed of with a direction to the

third respondent to consider the appeal petition of the petitioner dated 15.2.2017, conduct a fresh inspection of the petitioner's building after notice to the petitioner, consider the points raised by the petitioner in the appeal petition and pass a speaking order on merits and in accordance with law. The petitioner having remitted the enhanced property tax, such remittance will be subject to fresh orders to be passed by the Appellate Authority on the petitioner's appeal petition dated 15.2.2017. Till orders are passed in the appeal petition, no coercive action shall be initiated against the petitioner. No costs.

05.9.2017

Internet : Yes

To
1.The Commissioner of Corporation Corporation of Chennai, Chennai-3.
2.The Revenue Officer, Revenue Department, Corporation of Chennai,
Chennai-3.
3.The Assistant Revenue Officer Zone-12, Corporation of Chennai,
No.1, New Street, Alandur, Chennai-16.

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