IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2017

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THE HONOURABLE MS.JUSTICE R.MALA

Civil Revision Petition (NPD) No.961 of 2014
and
M.P.No.1 of 2014

M/s.Leigh Bazaar Merchants Association Limited,
rep.by its Secretary,
M.Chandrasekaran, ... Petitioner

..Vs..

The Commissioner,
Salem City Municipal Corporation,
Salem-1. ... Respondent

Prayer: This Civil Revision Petition has been filed under Article 227 of the Constitution of India, praying to set aside the judgment and decree dated 22.03.2013 and made in C.M.A.No.31 of 2011 on the file of the learned Principal District Judge, Salem, confirming the order dated 06.07.2011 and made in T.A.T.No.78 of 2008 on the file of the Taxation Appellate Tribunal, Salem Municipal Corporation.

For petitioner : Mr.Muthumani Doraisami
For Respondent : Mrs.K.Bhuvaneswari
Standing counsel for Salem Corporation

O R D E R

Challenging the fair and decretal order made in C.M.A.No.31 of 2011 dated 22.03.2013 on the file of the learned Principal District Judge, Salem, confirming the order passed by the Taxation Appellate Court, dated 06.07.2011 made in T.A.T.No.78 of 2008, the present revision petition has been filed.

2. The learned counsel for the petitioner would submit that the petitioner who is the owner of the M/s.Leigh Bazaar Merchants Association Limited, has filed this revision, stating that the property tax revision notice for enhancing the property tax was issued in the year 2003-2004. The respondent-Corporation has issued a revised property tax notice for occupant of M/s.Leigh Bazaar Merchants Association Limited. Challenging the same, a suit was filed in O.S.No.794 of 2003 before the District Munsif Court, Salem, which was dismissed, against which A.S.No.106 of 2007 was filed, which was also dismissed against which, Second Appeal No.1247 of 2008 was preferred before this Court and during the pendency of the Second Appeal, it was withdrawn, with liberty to move before the appropriate authority i.e., Taxation Appellate Tribunal. But taking into consideration the facts, the Appellate Tribunal passed an order confirming the special notice issued for revision of the tax, which is challenged in the C.M.A., which was also dismissed by the impugned order, by confirming the order passed by the Taxation Appellate Tribunal, against which, the present revision has been preferred.

3. The learned counsel for the petitioner would submit that the amount that has been mentioned in the assessment order, did not contain any particulars as to how they arrived at the revised amount. They have not followed the dictum laid down by this Court in the decision reported in 1995 (2) MLJ 43 (Dindigul Anna District Tax Payers Sangam represented by its President, M.V.R.A.Soundararajan Vs. Government of Tamil Nadu represented by its Secretary to Government, Municipal Administration and Water Supply Department and another).

4. The learned counsel for the respondent would submit that it is true that no reason has been assigned and only special notice has been given as to what is the amount of tax to be paid and if fresh representation is given by this petitioner, the respondent would consider their representation and pass appropriate orders after complying the provisions of the relevant Corporation Act and also the said decision of this Court.

5. Considering the rival submissions made by both sides and on a perusal of the typed set of papers, the occupant of this petitioner's association has received the individual revised property tax notice and only the revised tax had been mentioned and on what basis it has been revised, has not been stated therein. They have neither followed the ratio laid down in the said decision of

this Court reported in 1995 (2) MLJ 43 (cited supra), nor they have followed the procedures as to enhancement of the property tax once in 10 years and no particulars had been given to the petitioner's occupant before they revised the tax. At this juncture, it is to be noted that in the said decision reported in 1995 (2) MLJ 43 (cited supra), this Court, relying upon the Division Bench decision of this Court in W.A.No.222 of 1989, dated 15.03.1989, held that the assessee must be informed of the enhancement of tax with reasons and unless the reasons are set out in the notice, it cannot be said that proper opportunity is given to the asesssee to state his objections against the enhancement of assessment. But here, the respondent has not followed the procedure simply issued special demand notice claiming property tax which contain only revised property tax which is illegal.

6. In such circumstances, I am of the view that impugned special demand notice is bereft of all particulars and so, it has to be set aside. The petitioner is given liberty to approach the respondent by way of fresh representation, within 15 days from the date of receipt of a copy of this order. On receipt of the same, the respondent is directed to follow the procedures laid down under the relevant Corporation Act and also the above said dictum laid down by this Court in 1995 (2) MLJ 43 (cited supra) and thereafter, the respondent shall issue the special notice after following the procedures contemplated under law.

7. With the above observations and directions, the Civil Revision is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

02.02.2017

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To

1.The Principal District Judge, Salem
2. The Taxation Appellate Tribunal, Salem

R.MALA,J.,

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