IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2017

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THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

W.P.No.24091 of 2017 & W.M.P.No.25410 of 2017

M.O.Mohamed Rizvi ... Petitioner

Vs.

1.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai-600 003.

2.The Assistant Revenue Officer,
Zone V, Revenue Department,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
New Washermenpet,
Chennai-600 021. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to Assessment Order Notice 10 No.10/16-110/19612 dated 28.11.2016 issued by the second respondent and served on the petitioner on 10.08.2017 and quash the same and to forbear the respondents from demanding the payment pursuant to the Assessment Order dated 28.11.2016 passed by the respondents.

For Petitioner : Mr.M.Abdul Nazeer

For Respondents : M/s.Karthikaa Ashok

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O R D E R

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

2.The petitioner has filed this writ petition challenging the demand issued by the respondent claiming arrears of property tax by calculating the half yearly tax at Rs.9356/- with retrospective effect from II/2001-02.

3.Earlier, the mother of the writ petitioner had approached this Court and filed a writ petition in W.P.No.511 of 2010, challenging the demand issued based upon re-assessment stating that the same is not sustainable because, the extent of the property was incorrectly determined. The Court on being satisfied, entertained the writ petition and granted an interim order restraining the respondent from initiating any coercive action against the petitioner. Ultimately, the writ petition was disposed of by order dated 19.11.2014, by issuing the following direction:

> *"7.In the result, the writ petition is allowed and the impugned notice issued to the*

petitioner since deceased, is quashed. However, the legal heirs of the petitioner are directed to file fresh objection to the proposed notice dated 01.03.1999, along with relevant documents to substantiate their contentions, to the respondents within a period of three weeks from the date of receipt of the copy of this order. On receipt of the same, the respondents shall inspect the property in question, in the presence of the legal heirs of the petitioner and after affording opportunity of personal hearing to them, pass final order, fixing the annual rental value and consequential property for the relevant periods. Till such time, the petitioner's legal heirs shall continue to remit the property tax at the old rate without any default. No costs. Consequently, connected miscellaneous petition is closed."

4.Pursuant thereto, the petitioner submitted a representation on 22.01.2015, and the impugned order has been passed on 28.11.2016, stating that the property was inspected and the area of the building has been ascertained as 610 square feet in the ground floor, 610 square feet in the first floor and 300 square feet in the second floor and all being tenant-occupied, the annual value determined was Rs.78296/- and the half yearly tax has been revised in 1993 with retrospective effect.

5.The question would be as to whether the respondents would be justified in retrospectively revising the property tax for the subject building especially when it was ascertained that there was calculation error in the extent of the building. The answer would be in the negative, that is, in favour of the assessee and against the revenue.

6.However, considering the fact that property tax dispute has been lingering for several years and the petitioner has not been paying correct property tax and at the same time, the respondent-Corporation did not take appropriate steps at appropriate time to determine the correct extent of the built-up area, this Court is inclined to pass the following order giving quietus to the entire issue.

7.The property tax, which was initially fixed at Rs.385/- was proposed to be revised to Rs.3322/- by a notice dated 01.03.1999. This appears to have been the starting point of the dispute. Subsequently, there has been revision of property tax with retrospective effect from II/1998-99 at Rs.4411/- and further revision at Rs.5970/- and further was revised to Rs.6564/- and the final revision at Rs.9356/-, which is impugned in this writ petition.

8.Thus, considering the nature of use, for which the building has been put up, this Court would direct the second respondent to assess the petitioner’s property in the following manner:

(i) Property tax payable by the petitioner for the period from II/1998-99 to II/2001-02 is fixed at Rs.4,411/-;

(ii) for the period from II/2002-03 to II/2006-07, property tax is determined at Rs.5,970;

(iii) for the period from I/2007-08 to II/2012-13, property tax is determined at Rs.6,564/-; and

(iv) the property tax for the period from I/2013-14 to I/2017-2018, the property tax is determined at Rs.9,356/-.

9.The petitioner is directed to effect payment of property tax in terms of the above determination, for which demand shall be issued by the respondent after giving credit to the amount already paid by the petitioner. The petitioner is directed to clear the entire arrears within a period of three weeks from the date on which the demand is given.

10.With the above observations and directions, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

12.12.2017

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Index:Yes/No

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T.S.SIVAGNANAM, J.

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