In the High Court of Judicature at Madras

Dated : 07.9.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.24124 & 24125 of 2017 &
WMP.Nos.25476 to 25479 of 2017

City Tower Hotels Pvt.Ltd., rep.
by its Authorized Signatory
C.G.Biju ...Petitioner

Vs

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

2.The Zonal Officer, Zone V,
Greater Chennai Corporation,
No.61, Basin Bridge, Chennai-21.

3.The Assistant Revenue Officer,
Greater Chennai Corporation,
Zonal Office V, No.61,
Basin Bridge, Chennai-21. ...Respondents

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records in relation to the revised assessment orders (i) 7/17-18/27357 passed by the 1st respondent dated 06.7.2017 from 1st half year 2016-2017 revising the half year tax from Rs.6,40,800/- to Rs.11,87,755/- (WP.No.24124 of 2017) and (ii) 7/17-18/26930 passed by the 1st respondent dated 27.6.2017 from 1st half year 2010-2011 revising the half year tax from Rs.96,299/- to Rs.6,40,800/- (WP.No.24125 of 2017), quash the same and direct the respondents to conduct enquiry after giving affordable opportunity to the petitioner and pass appropriate orders for the petitioner premises in relation to the property bearing Nos.146 & 148, V.O.C. Salai, Off. Waltax Road, Periamet, Chennai-3.

For Petitioner : Mr.P.Subba Reddy
For Respondents : Mrs.Karthika Ashok

COMMON ORDER

Mrs.Karthika Ashok, learned Standing Counsel accepts notice for the respondents. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is a hotel situated at door Nos.146 and 148, VOC Salai, Off. Waltax Road, Chennai-3 near the Central Railway Station. According to the petitioner, their building has been assessed to property tax and half yearly tax was fixed at Rs.96,299/- and the petitioner has been regularly paying the same. It appears that there are no arrears. To substantiate the same, the learned counsel for the petitioner has drawn the attention of this Court to the receipt dated 12.11.2016 for the second half year 2016-17, which shows that the petitioner remitted the half yearly tax at Rs.96,299/-. The petitioner is aggrieved by the notices issued by the first respondent in Form No.7 dated 27.6.2017 and 06.7.2017 followed by a demand made vide letter dated 14.7.2017 demanding a sum of Rs.98,08,380/-.

3. After hearing the learned counsel for the parties and carefully perusing the materials on record, it is seen that after the issuance of notices in Form No.7, the first respondent has not completed the assessment nor issued final notice in Form No.10, but straight away issued the demand dated 14.7.2017. The procedure adopted by the first respondent is incorrect and illegal. Therefore, the first respondent cannot enforce the demand of Rs.98,08,380/-, which has been raised without following the procedure under the provisions of the Chennai City Municipal Corporation Act.

4. One more infirmity in the assessment proceedings is with regard to the manner, in which, the petitioner's property has been assessed to tax. As pointed out earlier, the half yearly tax fixed at Rs.96,299/- is now proposed to be revised at Rs.6,40,800/- per half year, that too with retrospective effect from 1/2010-11 vide the impugned order dated 27.6.2017; so also the half yearly tax fixed at Rs.6,40,800/- is now proposed to be revised to Rs.11,87,755/- per half year, that too with retrospective effect from 1/2016-17 vide impugned order dated 06.7.2017.

5. If the respondent Corporation proposes to revise the property tax, then such revision of tax ought to have been done by following proper method prescribed under the provisions of the said Act and the Rules framed thereunder. The principal requisite for issuing a revision notice is to conduct an inspection of the building. At the first instance, the respondent Corporation should inspect the building, take measurements and based on the factual details gathered during the course of inspection, provisional

assessment notice or notice in Form No.7 should be issued and the owner of the property should be given reasonable time to submit their objections and after objections are received, the same should be considered and it is desirable to afford an opportunity of personal hearing and then only, final assessment should be made. The notices in Form No.7 do not indicate that an inspection was conducted on the petitioner's building.

6. The learned counsel for the petitioner also submits that no inspection was conducted by the officials before issuing the notices in Form No.7.

7. This inherent defect goes to the root of the matter thereby affecting the very assessment proceedings. Since there is a gross procedural error in the matter of reassessment, the entire proceedings have to be set aside, giving liberty to the respondent Corporation to initiate revision proceedings afresh.

8. In the light of the above, the writ petitions are allowed and the impugned notices in Form No.7 dated 27.6.2017 and 06.7.2017 are set aside. Consequently, the demand made vide letter dated 14.7.2017 is also set aside. There will be a direction to the Competent Authority of the respondent Corporation to cause inspection of the petitioner's building in the presence of the authorized representative of the petitioner, take measurements and based on the notes of inspection, the respondent Corporation is directed to issue provisional notice of assessment clearly indicating as to how they propose to revise the property tax. The petitioner is

given 15 days' time to file their objections. On receipt of the objections from the petitioner, the Competent Authority of the respondent Corporation shall afford an opportunity of personal hearing to the authorized representative of the petitioner and thereafter proceed to pass final assessment order on merits and in accordance with law. Till the above procedure is completed, the petitioner shall continue to remit the property tax at the pre-revised rate i.e Rs.96,299/- without default. No costs. Consequently, the above WMPs are closed.

07.9.2017

Internet : Yes

To
1.The Commissioner, Corporation of Chennai, Rippon Buildings, Chennai-3.
2.The Zonal Officer, Zone V, Greater Chennai Corporation, No.61, Basin Bridge, Chennai-21.
3.The Assistant Revenue Officer, Greater Chennai Corporation,Zonal Office V, No.61, Basin Bridge, Chennai-21.

RS

T.S.SIVAGNANAM,J

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