In the High Court of Judicature at Madras

Dated : 13.10.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.24776 of 2017
& W.M.P.Nos.26162 and 26163 of 2017

P.S.Sanahulla ...Petitioner

Vs

1.The Revenue Commissioner, Zone - 1 - X,
Rippon Building, Chennai Corporation,
Chennai - 600 003.

2.The Assistant Revenue Officer, Zone - 1 - X,
Ripon Building, Chennai Corporation,
Chennai - 600 003.

3.Revenue Department, Zone - 5,
Chennai Corporation,
No.62, Basin Bridge Road, Chennai 600 079.
...Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to calling for records pertaining to the impugned notice GCC, R.D Property Tax - Notice for Current Demand and Arrears Demand dated NIL, Zone No.05, Ward No.057 and bearing Bill No.01506 and quash the same subsequently direct the 3rd respondent to restructure the property tax amount as according to the provisions of the Chennai City Municipal Corporation Act 1919.

For Petitioner : Mr.A.Abdul Rahman
For M/s.Nathan and Associates

For Respondents : M/s.Karthikaa Ashok

ORDER

Heard Mr.A.Abdul Rahman, learned counsel for the petitioner and Ms.Karthikaa Ashok, learned counsel appearing for the respondents.

2. The petitioner has filed this writ petition challenging the demand in Bill No.01506 on the ground that it is in blanket violation of the order and direction issued in W.P.Nos.1968 of 2011 and 28160 of 2016 dated 01.09.2016. The said writ petition was filed challenging the proceedings issued by the second respondent dated 21.12.2010 and the consequential proceedings dated 12.06.2016 and for a direction upon the respondents to re-structure the property tax amount in accordance with the provisions of the act, after elaborately hearing the parties. The writ petition was disposed of by order dated 01.09.2016 and the operative portion of the order and direction is as follows:-

> "5. If such is the case, the question of demanding the difference amount does not arise, that too, with retrospective effect from 1998 - 99. That apart, the impugned demand, dated 21.12.2010, does not give any particulars and it is a non-speaking demand without even providing an Annexure. In such a situation, the respondents have further complicated the matter by issuing another warrant notice, dated 12.06.2016, in which, they have claimed arrears of property tax from 1/2000-01. In the light of the fact that up to August 2006, the respondents have agreed before the Lok Adalat to fix the half yearly property tax at Rs.19,000/-, the demands made by the respondents up to the second half year 2005 - 06 stands set aside.
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> 5. So far as the demand made with retrospective effect demand has been made without doing any assessment on the property and without even providing an opportunity to the petitioner to contest the fixing of the annual value of the building. Thus, having completed the assessment, in a summary manner, without affording an opportunity to the petitioner, the demand made by the respondents, which is impugned in W.P.No.28160 of 2016, has to be set aside and it is set aside accordingly.
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> 6. Accordingly, both the writ petitions are allowed and the impugned demands are set aside and liberty is granted to the respondents/Corporation to initiate fresh proceedings, only from the first half year 2006 - 07. It is needless to state that before making any assessment of the property tax, the respondents should inspect the property (after giving notice to the petitioner), issue a pre-assessment notice, and based on the inspection, provide opportunity to the petitioner to submit his objections and thereafter, complete the assessment in accordance with law.

> 7. The petitioner, during the pendency of these writ petitions, is said to have deposited a sum of Rs.1,00,000/-. This amount shall be adjusted after the fresh assessment is made in terms of the above directions. Till the above direction is complied with, the petitioner shall continue to pay the pre-revised property tax, i.e., at the rate of Rs.19,000/- per half year, without any default. No costs. Consequently, the connected MP and WMP are closed."

3. Without adhering to the directions issued, the impugned demand has been raised. Therefore, while entertaining the writ petition, this Court passed the following interim order:

> "Heard the learned counsel for the petitioner. Mrs.Karthika Ashok, learned standing counsel accepts notice for the respondents.
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> 2.On a perusal of the impugned demand, it is prima facie clear that the respondents have not followed the directions issued by this Court in W.P.Nos.1968 of 2011 and 28160 of 2016 dated 01.9.2016. There is no indication that the petitioner's building was inspected as per the directions issued by this Court. If inspection had not been completed, it would amount to committing contempt of the order passed by this Court. Furthermore, this Court granted liberty to the respondents to initiate fresh proceedings only from 1/2006-07. A specific direction was also issued to the respondents as to how fresh proceedings should be initiated. This direction has also been thoroughly violated by the respondents. Hence, the petitioner has made out a prima facie case for grant of interim order.
>
> 3.Accordingly, there will be an order of interim stay and the respondents are directed to file counter within four weeks. It is needless to state that the order of interim stay will not operate in respect of admitted tax liability at the rate of Rs.19,000/- per half year as per the earlier orders. This amount shall be paid by the petitioner without any arrears within a period of three weeks from the date of receipt of a copy of this order. Post after four weeks."

4. M/s.Karthikaa Ashok, learned standing counsel for the respondent on written instructions from the second respondent submitted that the demand notice served by the Tax Collector stands withdrawn and the petitioner has been assessed to half yearly property tax at the rate of Rs.19,000/- as ordered by this Court.

5.In the light of the same, the writ petition is allowed and the impugned demand notice is quashed. No costs. Consequently, the connected Miscellaneous Petition is also closed.

sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

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To

1.The Revenue Commissioner, Zone - 1 - X,
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Chennai - 600 003.

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Chennai Corporation,
No.62, Basin Bridge Road, Chennai 600 079.

+1 CC Mrs.Karthika Ashok Advocate SR.No. 74002

EGR 13/11/2017

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