IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.16489 of 2017
and W.M.P.No.17838 of 2017

M/s.Dollar Company Private Limited,
"Thiruvenkadam"
No.1, De Silva Road,
Mylapore, Chennai - 600 004
Rep. By its Managing Director. .. Petitioner

Vs

1.The Commissioner,
Corporation of Chennai
(Revenue Department)
Rippon Building, Chennai-600 003.

2.The Revenue Officer/Zonal Officer,
New Zone 4, Ward 040,
Greater Chennai Corporation,
266, Thiruvotriyur High Road,
Tondiarpet,
Chennai - 600 021. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, for quashing final warrant notice in Che.Ma.Aa.Va.Thu/Special/2017-18 dated 03.06.2017, 2nd respondent and direct the respondents to accept the previous assessed tax of the petitioner's premises til they dispose of the objection raised after giving a proper opportunity especially when they had sought revision to enhance the property tax under the Act retrospectively when there was no power.

For petitioner : Mr.T.Ravikumar
For respondents: Mr.T.C.Gopalakrishnan
Standing Counsel

ORDER

Heard Mr.T.Ravikumar, learned counsel for the petitioner and Mr.T.C.Gopalakrishnan, learned standing counsel for the respondent Corporation. With the consent on either side, the writ petition is taken up for disposal.

2.The petitioner has challenged a final warrant notice issued by the respondent Corporation directing the petitioner to pay the revised arrears of property tax being a sum of Rs.1,10,014/- stating the same to be the arrears payable for the period I/2016-17 to I/2017-18. The petitioner's case is that the building is a old construction and no new changes have been made in the building for a long time and they have been paying the property tax for the earlier period at Rs.18,184/- as half yearly tax calculated at the annual value of the building to be fixed at Rs.1,50,170/-. On 18.02.2015, the respondent Corporation issued a notice proposing to revise the property tax assessment and the annual value of the building at Rs.36,550/- and the said amount is payable with effect from I/2013-14. The petitioner submitted a representation on 25.03.2015 stating that the revision could only be prospective in nature and not retrospective and it is in violation of the principles of natural justice as no notice issued to them prior to such revision of property tax and fixing the revised annual rental value of the building. After the representation dated 25.03.2015, it appears that no action was taken and during August 2015, the petitioner submitted another representation to the respondents requesting to cancel the retrospective increase and make an increase prospectively from 01.04.2015 as the order came to be passed only in the year 2015. The Assistant Revenue Officer, Zone 4 by letter dated 05.04.2016 informed the petitioner that the property tax has been properly fixed as per the revision order and the amounts were payable by the petitioner. Therefore, the petitioner sent another representation dated 17.11.2016 to the respondent Corporation challenging the claim for arrears and pointing out that the petitioner is not a defaulter. Further, it was stated that no working sheet has been provided by the respondent as of now and the property was enhanced nearly 100% over and above the previous rate. Further, it was stated that the construction was put up in the year 1960 and there is no change in ownership and the age of the building is more than 25 years and the revision of assessment is not sustainable. When these representations were pending, the impugned notice has been issued.

3.After hearing the learned counsels for the parties and perusing the materials placed on record, it is seen that the representation dated 25.03.2015 given by the petitioner has been received in the Office of the Chennai Corporation on 27.03.2015 as evident from the date and seal affixed in the copy of the representation retained by the petitioner. This was followed by another representation dated 17.08.2015 which has been sent by speed post. Both the representations were not considered and notice has been issued. On receipt of the said notice, the petitioner submitted another representation/objection on 17.11.2016 by registered post followed by another representation dated 03.06.2017 sent by speed post. All these representations have not been considered though there is sufficient proof to show that the Office of the Corporation of Chennai have received all those representations. In such circumstances, the respondents are not justified in issuing a warrant notice to the petitioner. In the objections raised by the petitioner apart from other things the petitioner has specifically challenged the jurisdiction of the respondents to revise the property tax retrospectively and simultaneously they were ready to accept the prospective revision. Unfortunately, the officials of the respondent Corporation have ignored such representation made by the petitioner which in the considered opinion of this Court appears to be a very reasonable request. The manner in which the impugned warrant notice has been issued clearly shows that total non-application of mind. The petitioner's specific stand is that the building is aged more than 25 years and there is no change of construction, no additions nor there is a change of ownership were all ignored by the respondents. Therefore, this Court has no hesitation to hold that the impugned warrant notice is wholly without jurisdiction and illegal. For such reason, the same is required to be set aside.

4.As pointed out earlier, there was no justification with the respondents to retrospectively revise the property tax from I/2013-14, more so, when the notice for such revision was issued only on 18.02.2015. There is no material to show that the annual value of the building has appreciated or that there was new construction or new amenities added. Hence, this Court holds that the retrospective revision with effect from I/2013-14 is illegal and the same is quashed. The respondents are directed to consider the petitioner's representations/objections dated 25.03.2015, 17.08.2015, 17.11.2016 and 03.06.2017 and examine as to whether the property tax requires to be revised with effect from the assessment year 2015-16 onwards. The respondents are required to afford an opportunity of personal hearing to the authorized representatives of the petitioner and pass fresh orders on merits and in accordance with law.

5.With the above directions, the writ petition is allowed and the impugned warrant notice is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cse

To

1.The Commissioner,
Corporation of Chennai (Revenue Department)
Rippon Building, Chennai - 600 003.

2.The Revenue Officer/Zonal Officer,
New Zone 4, Ward 040,
Greater Chennai Corporation,
266, Thiruvotriyur High Road, Tondiarpet,
Chennai - 600 021.

+ 1 cc to Mr.T. Ravikumar, Advocate SR.47166
+ 1 cc to Mr.T. Ravikumar, Advocate Sr.47762

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VGI(CO)
EU 27.7.17