IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.26941 of 2017 & W.M.P.Nos.28731 & 28732 of 2017

C.K.Ramesh babu,
Running Office at No.305 [138],
V.O.C. Salai, Edapalayam,
Park Town, Chennai-600 003. ... Petitioner

Vs.

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

2.The Zonal Officer, Zone-V,
Greater Chennai Corporation, Basin Bridge,
No.61, Basin Bridge Road, Chennai-600 021.

3.The Assistant Revenue Officer,
Greater Chennai Corporation,
Zonal Office-V,
No.61, Basin Bridge Road,
Chennai-600 021. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records in relation to the revised assessment order dated 27.09.2017 Z.O V.R.D.C.No.R1/spl/2017 dated 27.09.2017 passed by the second respondent from 2nd Half year of 2011-2012 revising the Half year tax from Rs.25,486/- to Rs.3,74,561/- and 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 door No.305 [138] V.O.C. Salai, Edapalayam, Chennai-600 003.

For Petitioner : Mr.P.Subba Reddy

For Respondents : M/s.Karthikaa Ashok,
Standing Counsel

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O R D E R

Heard Mr.P.Subba Reddy learned counsel for the petitioner and M/s.Karthikaa Ashok, learned Standing Counsel for the respondent. With consent on either side, this writ petition is taken up for final disposal.

2.The petitioner is running a hotel cum lodging house consisting of several rooms and they are aggrieved by the revision of property tax with retrospective effect from 2nd Half year of 2011-12 and a consequential demand dated 03.10.2017. The respondent has revised the property tax invoking the power under Section 137B of the Chennai City Municipal Corporation Act, 1919. The petitioner's case is that they were not provided with any opportunity before exorbitant increase in the property tax as proposed in the impugned notice dated 27.09.2017. It is further submitted that though the impugned notice states that the petitioner can file their appeal to the Commissioner, Greater Chennai Corporation within 15 days, well before the expiry of the 15 days period, a demand has been issued for payment of the enhanced property tax. Admittedly, the notice in Form VII dated 27.09.2017 is a pre-assessment notice. That is why, the notice gives an opportunity to the assessee to file their objections, which is termed as an appeal before the Commissioner, Greater Chennai Corporation, Chennai. When such an opportunity has been granted to the petitioner, the respondent Corporation may not be justified in immediately initiating coercive action for recovery of the enhanced property tax.

3.The learned Senior Counsel appearing for the respondent would contend that the petitioner's building is a special building and as per the recent regulation, they have been rightly assessed to enhanced tax and the earlier tax, which was fixed, was ridiculously low at the rate of Rs.25,486/- and the petitioner has several air-conditioned rooms in his hotel and therefore, the rate of tax as adopted in the impugned notice is just and proper. It is further submitted that the petitioner can always raise objections in the form of appeal to the Commissioner, which will be considered in accordance with law.

4.Thus, taking note of the submissions on either side, that the petitioner has an opportunity of filing an appeal as against the impugned notice, this Court is of the view that the petitioner should be directed to exhaust the appeal remedy. However, taking note of the fact that the property tax was fixed at Rs.25,486/- several years back that too before the petitioner purchased the property, this Court is of the view that the petitioner should be directed to remit some amount as adhoc payment till the petitioner's objections are heard and decided.

5.Accordingly, this Writ petition is disposed of by directing the petitioner to remit a sum of Rs.6,00,000/- (Rupees Six Lakhs) within a period of 6 weeks from the date of receipt of a copy of this order. Along with remittance, the petitioner is entitled to submit their objections to the notice in Form 7 dated 27.09.2017, which shall be in the form of appeal to the Commissioner, Greater Chennai Corporation, Chennai. On receipt of the appeal/objections, the competent officer of the respondent-Corporation shall cause an inspection of the petitioner's building after notice to the petitioner. Considering the objections and the amenities provided etc., the respondent-Corporation shall pass final assessment orders. It is made clear that apart from payment of Rs.6,00,000/-, the petitioner should not be in arrears of the original property tax viz., Rs.25,486/-. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

abr

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

2.The Zonal Officer, Zone-V,
Greater Chennai Corporation, Basin Bridge,
No.61, Basin Bridge Road, Chennai-600 021.

3.The Assistant Revenue Officer,
Greater Chennai Corporation,
Zonal Office-V,
No.61, Basin Bridge Road,
Chennai-600 021.
+1cc to Mr.P.Subba Reddy, Advocate sr.74039
+1cc to Mr.Karthikaa Ashok, Advocate sr.74003

W.P.No.26941 of 2017

sk(co)
ss(25/10/2017)