IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2017

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.7304 of 2004

1. G.Devarajan
2. Ramakrishnan
3. Narayanasamy ... Petitioners

Vs.

1.The Commissioner,
Corporation of Coimbatore
Municipal Corporation,
Town Hall, Coimbatore-18.

2.The Assistant Commissioner,
Municipal Administration and Water Supply,
South Zone,
Coimbatore Municipal Corporation,
Coimbatore-641 018. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Na.Ka.No....2003/A6, dated 08.03.2004 and quash the same as illegal and ultravires and as a consequential relief to direct the 1st respondent to adjust the excess tax on the basis of the representation dated 27.09.2000 and 20.02.2004.

For petitioner : Mr.S.Raveekumar

For respondents : Mr.R.Ravikumar

O R D E R

The Writ Petition has been filed challenging the order of the 2nd respondent in Na.Ka.No....2003/A6, dated 08.03.2004 and to quash the same as illegal and ultra vires and also for a consequential direction, directing the 1st respondent to adjust the excess tax on the basis of the representations dated 27.09.2000 and 20.02.2004.

2. The brief facts of the case are as follows:

The petitioners, who are the owners of the building at Door No.78, Devi & Co. Lane, Coimbatore-18, are running a Lodging Business in that building and they were paying the property tax regularly to the 1st respondent. Initially, the

1st respondent assessed the property tax which was challenged by way of filing an appeal in TAT No.351/2000. After hearing, the Taxation Appellate Tribunal, Coimbatore passed orders re-fixing the assessment made by the 1st respondent. After re-fixation as per the orders of the Taxation Appellate Tribunal, the 2nd respondent issued the impugned order directing the petitioner to pay the amount mentioned in the order as per the direction of the 1st respondent.

3. The main contention of the petitioner is that without considering the orders of the Taxation Appellate Tribunal and without conducting any enquiry for fixing the assessment, the order which is impugned in this Writ Petition is passed which is illegal and against the principles of natural justice. Hence, he prayed to set aside the impugned order dated 08.03.2004.

4. The learned Counsel for the respondent would submit that this impugned order was passed based on the instruction given by the 1st respondent, namely, the Commissioner, Corporation of Coimbatore Municipal Corporation, after considering all the aspects. Hence, he prayed for dismissal of the Writ Petition.

5. On a perusal of the impugned order, it appears that the 2nd respondent filled up some particulars and the amount in the printed format. Therefore, it appears that there is some force in the representation made by the petitioner. It also appears that the impugned order was passed without giving any opportunity to the petitioners to put forth their case, behind their back.

6. In view of all the above, this Court is of the view that it is proper to remand the matter back to the 2nd respondent for fresh assessment. The petitioners are given liberty to make a representation along with a copy of this order to the 2nd respondent within a period of one week from the date of receipt of a copy of this Order and thereafter, the 2nd respondent shall consider the same and pass a fresh order assessing the tax for the year 2003-2004 in respect of the petitioners building, within a period of four weeks.

7. The Writ Petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

tsi

To
1.The Commissioner,
Corporation of Coimbatore
Municipal Corporation,
Town Hall, Coimbatore-18.

2.The Assistant Commissioner,
Municipal Administration and Water Supply,
South Zone,
Coimbatore Municipal Corporation,
Coimbatore-641 018.

+1cc to Mr.R.Sivakumar,Advocate sr.49843

+1cc to Mr.S.Raveekumar,Advocate sr.49533

W.P.No.7304 of 2004

skv(co)
ss(18/8/2017)