IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.38790 of 2015
and
M.P.No.1 of 2015

P.Suresh .. Petitioner

Vs.

1. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai .

2. The Assistant Revenue Officer,
Zone-III,
Corporation of Chennai,
Madhavaram,
Chennai. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to quash the impugned order dated 24.08.2015 vide Ma.A.3.Va.Thu.Ka.Na.Ka.No.Aa2/722/2015, passed by the second respondent and direct the first respondent to consider Appeal dated 07.04.2012 in consonance with the grounds raised in this Writ Petition.

For Petitioner: Mr.L.N.Praghasam

For Respondents: Mr.T.C.Gopalakrishnan,
Standing Counsel for Corporation

O R D E R

The petitioner is aggrieved against the order dated 24.08.2015 passed by the 2nd respondent, wherein and whereby, the petitioner was called upon to pay a sum of Rs.16,716/- being the arrears of property tax commencing from second half year of 2011-2012 till the date of passing of the said order, also by indicating that the appeal filed by the petitioner as against the original assessment passed by the 2nd respondent on

20.03.2012 was already disposed of and communicated to the petitioner on 07.01.2015 itself.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

3. The petitioner was issued with an order of assessment dated 20.03.2012 in respect of his property. Challenging such assessment, the petitioner preferred an appeal before the first respondent on 07.04.2012. The petitioner sent a reminder on 08.12.2014 seeking for disposal of the said appeal. However, the 2nd respondent issued a demand notice on 17.08.2015 based on the original order of assessment. Therefore, the petitioner through his communication dated 17.08.2015, informed the respondents that when the appeal filed by him on 07.04.2012 was pending and not disposed of, issuing the demand notice was not valid. Therefore, he once again sought for disposal of the appeal. To the said letter issued by the petitioner, the 2nd respondent sent the impugned communication.

4. It is contended by the learned counsel for the petitioner that the appeal filed by the petitioner has not been disposed of so far and the statement made in the impugned proceedings as though the petitioner was served with some order on 07.01.2015 is also not factually correct.

5. On the other hand, it is contended by the learned counsel for the respondents that the appeal filed by the petitioner was disposed of on 29.12.2014 itself. He also produced the file in support of his contention.

6. A perusal of the file would show that the final assessment appears to have been passed on 29.12.2014 in the usual format of Notice-10. A perusal of the said proceedings would also indicate that there is no reference whatsoever with regard to the contentions raised by the petitioner in his appeal memorandum dated 7.4.2012. Therefore, it appears that the said proceedings seems to have been passed without reference to the contentions raised by the petitioner in the appeal memorandum. Apart from the said fact, it is also evident that the said proceedings dated 29.12.2014 has not been served on the petitioner in a manner known to law. Though some endorsement was made at the bottom of the said proceedings to claim as though the petitioner has received the same, a perusal of the said endorsement would make it abundantly clear that some corrections were made with regard to the date of such endorsement. Therefore, I find force in the contentions of the petitioner that he was not served with the said communication at all. Even otherwise, as the said proceedings seems to have been issued without reference to the contentions raised in the appeal memorandum and without hearing the petitioner in person, I am of

the view that the impugned order reiterating the contentions raised in the said proceedings dated 29.12.2014, cannot be sustained. Accordingly, the impugned proceedings are set aside and the first respondent is directed to consider the appeal dated 7.4.2012 filed by the petitioner and pass orders on the same on merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner. Such exercise shall be done by the first respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently. connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

vsi

To

1. The Commissioner,
 Corporation of Chennai,
 Ripon Building,
 Chennai .

2. The Assistant Revenue Officer,
 Zone-III,
 Corporation of Chennai,
 Madhavaram,
 Chennai.

+1cc to Mr.T.C.Gopalakrishnan,Advocate sr.16209

+1cc to Mr.Praghasam,Advocate sr.16302

W.P.No.38790 of 2015

sks(co)
ss(3/4/2017)