IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.Nos.43842 & 43843 of 2016
and W.M.P.Nos.37668 & 37669 of 2016

The Wellingdon Estate Charitable Trust,
6th Floor, Rani Seethai Hall,
603, Anna Salai,
Chennai – 600 002.
Represented by its Honorary Secretary,
AR.Ramaswamy .. Petitioner
[in both W.Ps.]

Vs.

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

2.The Zonal Officer (Revenue Department),
Zone-V,
Corporation of Chennai,
No.61, Basin Bridge Road,
Chennai – 600 021.

3.The Assistant Revenue Officer,
Revenue Department, Zone-V,
Corporation of Chennai,
No.61, Basin Bridge Road,
Chennai – 600 021. .. Respondents
[in both W.Ps.]

<u>COMMON PRAYER</u>: Petitions filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari, to call for the records comprised in Notices : 7/16-17-19315 and 7/16-17-19314 respectively dated 21.11.2016 on the file of the first respondent and the consequential order of revision in Z.O.V.R.D.C.No/spl/2016, dated 21.11.2016, on the file of the second respondent, and quash the same.

For Petitioner [in both W.Ps.]	:	Mr.Harinath for Mr.R.Karthikeyan
For Respondents [in both W.Ps.]	:	M/s.T.C.Gopalakrishnan

<u>C O M M O N O R D E R</u>

1. On the previous date i.e., 21.12.2016, the following order was passed by me:

> *"1. Issue notice. Ms.Padmashalini, accepts notice on behalf of the respondents. The learned counsel says that she represents Mr.T.C.Gopalakrishnan, Advocate.*
>
> *2. Counter affidavit, if any, be filed within two (2) weeks.*
>
> *3. Rejoinder, thereto, if any, be filed before the next date of hearing.*
>
> *4. The petitioner is aggrieved by the revised Assessment Notice dated 21.11.2016, whereby, half yearly tax has been increased,*

retrospectively, that is, from the Assessment Year 2010-11. In Assessment Year 2010-11, the half yearly tax levied on the petitioner was a sum of Rs.1,89,399/-. This amount has now been increased to Rs.18,67,500/-. Consequently, the petitioner has, now, been called upon to pay, for the period spanning between 2010-11 and 2016-17, a sum of Rs.2,33,93,566/- towards tax. This demand is raised based on the reassessment of the annual value of two Kalyana Mandapams, which are owned by the petitioner. As per the impugned notice the combined annual value is pegged at of Rs.1,50,60,498/-.

4.1. It is submission of the learned counsel for the petitioner that no notice was given prior to enhancement in the annual value and the consequent crystallisation of the demand in the impugned notice. It is thus stated, that, the impugned notice is issued in breach of principles of natural justice. It is further stated that the respondents are required to give a reasonable opportunity before revising the annual value in terms of the Clause – 3 (6) of Part I-A of Schedule IV of the Chennai City Municipal Corporation Act, 1919.

5. The matter requires examination. Therefore, till the next date of hearing, there shall be a stay on the operation of the impugned order.

6. Re-notify on 02.02.2017

7. In a connected Writ Petition, i.e., W.P.No.43843 of 2016, which was listed before me in Court today, I have issued notice and granted interim protection.

8. Accordingly, issue notice in the captioned Writ Petition as well. Ms.Padmashalini, accepts notice on behalf of the respondents. The learned counsel says that she represents Mr.T.C.Gopalakrishnan, Advocate.

9. Counter affidavit, if any, be filed within two (2) weeks.

10. Rejoinder, thereto, if any, be filed before the next date of hearing.

11. Until further orders, there shall be a stay on the operation of the impugned order.

12. Re-notify on 02.02.2017.”

2. The learned counsel for the petitioner says that the respondent Corporation on the said date was represented, despite which, no counter affidavit has been filed. Mr.T.C.Gopalakrishnan, who appears for the respondents, on the other hand, says that the two impugned orders are in the nature of show cause notices and that, if objections are filed, they shall be dealt with.

3. Accordingly, the Writ Petitions are disposed of, with a direction to the first respondent, to treat the assertions made in the Writ Petitions as objections to the impugned notices. The first respondent after affording an opportunity of personal hearing to the petitioner will pass an order in the matter.

4. The first respondent will pass a speaking order in that behalf - a copy of which will be supplied to the petitioner.

5. Needless to say, pending disposal of the objections, the interim order passed by this Court on 21.12.2016 will continue to operate.

6. The Writ Petitions are disposed of accordingly. Consequently, connected Miscellaneous Petitions are closed. There shall, however, be no order as to costs.

03.02.2017

Index : Yes/No
Internet : Yes
sri

RAJIV SHAKDHER, J.

sri

To

1.The Commissioner,
Corporation of Greater Chennai,
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Chennai – 600 003.

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