BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **06.09.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

W.P(MD)No. 15286 of 2017
and
W.M.P(MD)No.12091 of 2017

Kottar Ilankadai Muslim Samuthaya Trust,
Rep. by its
President,
Kottar. .. Petitioner

Vs.

The Nagercoil Municipality,
Rep. by its Commissioner,
Nagercoil,
Kanyakumari District. .. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for records relating to the impugned proceedings of the respondent in Na.Ka.No.9745/2002/A4 dated 17.05.2017 and quash the same as illegal.

For Petitioner : Mr.M.Mahaboob Athiff
for M/s. Ajmal Associates

For Respondent : Mr.P.Athimoola Pandian

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ORDER

This writ petition has been filed by the petitioner, seeking a writ of Certiorari to quash the impugned proceedings of the respondent in Na.Ka.No.9745/2002/A4 dated 17.05.2017.

2.The case of the petitioner trust is that they own a number of properties in and around Nagercoil, including a Marriage Hall, in D.No.18/2-66F, Ward No.17, Nagercoil, for which, property tax was levied by the respondent municipality. For the Assessment Year 1986-87, the respondents levied property tax at the rate of Rs.147/- per half year and from 01.10.1988, to their shock and surprise, they levied Rs.18,231.90/- as property tax per half year, which according to the petitioner is illegal and constrained them to file suits before the Principal District Munsif Court, Nagercoil. After prolonged litigations, this Court, on 25.10.2016, in S.A.No.1958 of 2001 directed the respondents to initiate proceedings for fresh assessment of property tax in respect of the property in question commencing from the first half year of 1989-90, after issuing show cause notice. As the respondent has passed the present impugned order without strictly following the direction of this Court, the petitioner is before this Court again.

3.Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondent municipality.

4.This Court, by order dated 25.10.2016, in S.A.(MD)No.1958 of 2001, directed the respondent to pass Assessment Orders, after due opportunity to the petitioner, so as to enable him to file objections, if any. Since this Court has passed an order permitting the respondent to pass Assessment Orders, there is no question of limitation. The only assailment of the petitioner on the impugned order dated 17.05.2017, is that the respondent has unilaterally passed the order without affording any opportunity of hearing to the petitioner, which shows a total non-application of mind on the part of the respondent before passing such order.

5.It is apparent that the respondent had not issued any notice with opportunity of hearing to the petitioner before passing the present impugned order, which violates the order of this Court dated 25.10.2016. Therefore, on this sole ground alone, the impugned order is liable to be set aside.

6.Accordingly, the impugned order is set aside and the matter is remitted to the respondent for fresh consideration. The respondent is hereby directed to comply with the directions of this Court, in S.A.(MD)No.1958 of 2001 dated 25.10.2016 and pass appropriate orders. For each and every Assessment Year, the respondent is directed to issue separate show cause notice, indicating the tax payable, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, within a period of two weeks, the petitioner is directed to file necessary objections before the respondent, who in turn shall pass separate Assessment Order corresponding to every Assessment Year, right from 1989-90, within a period of four weeks thereafter.

7.This writ petition is disposed of in the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Commissioner,
Nagercoil Municipality,
Nagercoil,
Kanyakumari District.

+1cc to M/S.Ajmal Associates, in SR.No.76995

gk
AE/SV MMS/SAR1/15.09.2017/3P/3C

ORDER MADE IN
W.P(MD)No.15286 of 2017
06.09.2017