BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No. 15558 of 2017

P.G.Ayyadurai .. Petitioner

Vs.

1. The Commissioner,
   Madurai Corporation,
   Madurai.

2. The Assistant Commissioner,
   Madurai Corporation,
   Madurai. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned demand notice issued by the 2nd respondent dated 04.11.2016 quash the same as illegal, inconsequentially direct the respondents to reassess the property tax for Tax Assessment No.309220 by measure the petitioner's building consisting of commercial portion and residential portion separately situated in No.9/1/1A, Jawahar 2nd Street, S.S.Colony, Madurai.

For Petitioner : Mr.R.Rajamohan
For Respondents : Mr.J.Gunaseelan Muthiah,
Government Advocate

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ORDER

This writ petition has been filed by the petitioner, seeking a writ of Certiorarified Mandamus to quash the impugned demand notice of the second respondent dated 04.11.2016 and to direct the respondents to re-assess the property tax, by measuring his commercial and residential portion separately, situated in No.9/1/1A, Jawahar 2nd Street, S.S Colony, Madurai.

2.The case of the petitioner is that they owned a three floor building, consisting of both residential and commercial floors, having Tax Assessment Nos.401544 and 309220 for residential and commercial purposes separately, in the aforementioned address. As the respondents levied property tax on commercial basis alone, without splitting the total extent of the building as commercial and residential, the petitioner was constrained to submit various representations before the respondents and as the same failed to meet its fate, a writ petition came to be filed before this Court in W.P(MD)No.12373 of 2017, wherein, by order dated 14.07.2016, this Court allowed the writ petition and directed the respondents to measure the property separately. Pursuant to the same, the respondents re-assessed the property and sent provisional demand notice dated 29.09.2016, followed by a final demand notice dated 04.11.2016, demanding Rs.35,05,164/- for Commercial Tax Assessment No.309220 and Rs.20,141/- for Residential Tax Assessment No.401544. It is the further case of the petitioner that the respondents failed to measure the property properly and issued the impugned demand notice. Aggrieved by the same, the petitioner submitted a representation dated 28.12.2016, to the respondents. As the same has not been considered so far, the petitioner is before this Court, again, with the aforesaid prayer.

3.Heard the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

4.Though the prayer in this writ petition is for a larger relief, the learned Counsel for the petitioner now confines his prayer to direct the respondents to dispose his representation dated 28.12.2016, as per law. It is further submitted by the learned Counsel for the petitioner that pursuant to the impugned demand notice, a sum of Rs.4,00,000/- (Rupees Four Lakhs only) has also been deposited, which is not refuted by the learned Government Advocate.

5.Under such circumstances, this Court, without going into the merits of the petitioner's claim, directs the respondents to consider the representation of the petitioner dated 28.12.2016 and pass appropriate orders on its own merit and in accordance with law, after affording due opportunity of hearing to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

6.With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To
1. The Commissioner,
Madurai Corporation,
Madurai.

2. The Assistant Commissioner,
   Madurai Corporation,
   Madurai.

+1cc to Mr.R.Rajamohan, Advocate Sr.No.76334
+1cc to Mr.J.Gunaseelan Muthiah,Advocate SR.No.76344

GK

VB/SV/MMS/SAR1/15/09/2017/3P/5C

ORDER MADE IN
W.P(MD)No.15558 of 2017
04.09.2017