BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P(MD)No.4317 of 2017
and
W.M.P(MD)No.3468 of 2017

T.Raja,
S/o.A.Thavasi Thevar,
No.7-6-149, south street,
Batlagundu,
Dindigul District. .. Petitioner

Vs.

1.The Commissioner,
Batlagundu Town Panchayat,
Nilakkottai Taluk,
Dindigul District.

2.The Executive Officer,
Batlagundu Town Panchayat,
Nilakkottai Taluk,
Dindigul District. .. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned Demand Notices under No.41/2017 to No.49/2017 in Assessment Nos.1900, 9013-9020 dated nil, on the file of the second respondent and quash the same.

For Petitioner : Mr.G.Aravinthan
For Respondents : Mr.M.Rajarajan

ORDER

This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned Demand Notices under No.41/2017 to No.49/2017 in Assessment Nos.1900, 9013-9020 dated nil, on the file of the second respondent and quash the same.

2.Heard the learned counsel appearing for the petitioner and Mr.M.Rajarajan, learned counsel, who takes notice for the respondents.

3.The Writ Petition is filed challenging the Demand Notices issued by the second respondent demanding tax for nine shops owned by the petitioner. The objection raised by the petitioner in this case is that the impugned notices of demand have been issued without issuing a show cause notice or a provisional assessment in accordance with the procedure prescribed under the Rules.

4.On a mere reading of impugned Demand Notices, it is clear that there is no indication that the Demand Notices were preceded by a provisional assessment and after giving opportunity to the petitioner to raise objections.

5.The fact that the assessment of tax has been made for a new building in the place of an existing building is not in dispute. In these circumstances, the Demand Notices, without issuing a show-cause notice and provisional assessment preceding the final assessment and demand are not sustainable. Hence, for violation of principles of natural justice and Rules prescribed under the Act, the impugned Demand Notices challenged in the Writ Petition are set aside. However, liberty is given to the respondents to make a fresh assessment of property tax in accordance with the provisions of the Tamil Nadu District and Municipalities, Act, after affording an opportunity to the petitioner.

6.The learned counsel for the respondents submitted that the petitioner has already paid tax for the year 2015-16. However, the learned counsel for the petitioner stated that the tax was collected under coercion.

7.Without going into the merits of the above said contention, the tax collected from the petitioner can be withheld by the respondents and the same will be adjusted towards the tax payable as per the fresh assessment.

8.Accordingly, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(C)

/True Copy/

Sub Assistant Registrar

To

1.The Commissioner,
Batlagundu Town Panchayat,
Nilakkottai Taluk,
Dindigul District.

2.The Executive Officer,
Batlagundu Town Panchayat,
Nilakkottai Taluk,
Dindigul District.

+1cc to M/S Mr.G.Aravinthan,Advocate in SR.14853

W.P(MD)No.4317 of 2017
15.03.2017

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