BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.17035 of 2016
and
W.M.P(MD)No.12354 of 2016

Meenakshi ... Petitioner

Vs.

1. Madurai Corporation rep. by its Commissioner, Madurai City.
2. The Assistant Commissioner, Zone No.4, Madurai Corporation, Madurai City.
3. The Revenue Assistant, South Zone, Madurai Corporation, Madurai City. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the first respondent in Na.Ka.No.3923/2014/Z4A2 dated 18.04.2016 and quash the same and consequently direct the respondents to repay the excess amount collected from the petitioner by the respondents from the year 2003 to 2015 towards non-residential tax or adjust petitioner's excess amount collected from him by the respondents from the year 2003 to 2015 towards non-residential tax in his forthcoming house tax bill payment.

For Petitioner : Mr.K.Guhan.
For Respondents : Mr.N.Shanmugaselvam.

ORDER

This writ petition has been filed seeking a Writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent in Na.Ka.No.3923/2014/Z4A2 dated 18.04.2016 and direct the respondents to repay the excess amount collected from the petitioner by them from the year 2003 to 2015 towards non-residential tax or adjust the same towards non-residential tax in his forthcoming house tax bill payment.

2.The case of the petitioner is that the father of the petitioner purchased the house property bearing Door No.18, Thiyagi Thayammal Street, North Chithirai Street, Madurai and after his demise the petitioner is in possession and enjoyment of the same. The respondent Corporation increased the house tax, classifying the same as commercial property from 01.10.1998.

Therefore, his father filed W.P(MD)No.6634 of 2009, wherein this Court set aside the said order and directed the respondent Corporation to pass orders after hearing objections. Inspite of filing necessary documents along with a representation, the respondent Corporation issued a notice directing the petitioner to pay sum of Rs.94,144/- towards taxes. Against which, the petitioner filed W.P(MD)No.3854 of 2016, wherein this Court directed the respondent Corporation to pass appropriate orders after hearing the petitioner, subject to payment of Rs.50,000/- by the petitioner. In the month of July, 2003, the respondents have issued notice with regard to caution deposit, wherein also, his property has been classified as house property. Despite the same, the respondent Corporation has erroneously passed the impugned order. Therefore, the petitioner is before this Court.

3.The learned counsel appearing for the petitioner would submit that from 01.10.1998, the respondent Corporation increased the house tax for his house property, classifying the same as commercial property and the same is totally against the proceedings of the Corporation dated -06.2013, wherein the usage has been classified as residence. He would further submit that now the petitioner seeks an opportunity to produce all the required and relevant documents for passing necessary orders in respect of levying appropriate tax and therefore the impugned order is liable to be set aside.

4.The learned counsel appearing for the respondents has also agreed for the same.

5.Considering the submissions made on either side, the impugned order is liable to be set aside and accordingly the impugned order passed by the first respondent in Na.Ka.No.3923/2014/Z4A2 dated 18.04.2016 is set aside and the matter is remitted back to the first respondent for passing appropriate orders. The petitioner is directed to produce all the required documents before the first respondent on or before 08.08.2017 and on receipt of the same, the first respondent shall conduct an enquiry on 16.08.2017 and pass necessary orders on its own merit and in accordance with law, after affording due opportunity of hearing to the petitioner, within a period of two weeks, thereafter.

6.The writ petition is disposed of as above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner,
   Madurai Corporation,
   Madurai City.

2. The Assistant Commissioner,
   Zone No.4, Madurai Corporation,
   Madurai City.

3. The Revenue Assistant,
   South Zone, Madurai Corporation,
   Madurai City.

+1cc to M/S. N.SHANMUGA SELVAM, Advocate, SR.No.68224.
+1cc to M/S. K.GUHAN, Advocate, SR.No.68115.

ORDER MADE IN
W.P(MD)No.17035 of 2016
and
W.M.P(MD)No.12354 of 2016
27.07.2017

smn
SDS/SKN:RSK/SAR 2/31.07.2017/3P/6C