BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24.02.2017

Coram

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.(MD)Nos.7873 and 7874 of 2011
and
M.P.(MD)Nos.1, 1 and 2 of 2011

M/s.Thoothukudi District Central
Cooperative Bank Ltd.,
Rep. By its Special Officer/ Joint Registrar,
109/5D, Ettayapuram Road, Polpetti,
Thoothukudi. ... Petitioner in both W.Ps.

Vs.

1.The Director,
Directorate of Municipal Administration,
Chepauk, Chennai.

2.The Commissioner,
Thoothukudi Municipality,
Thoothukudi.

3.The Taxation Appeal Committee,
Thoothukudi Municipality,
Thoothukudi. ... Respondents in both W.Ps.

Prayer in W.P.(MD)No.7873 of 2011: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to order passed by the second respondent vide A2.1742/2003 dated 02.12.2003 and confirmed by the Learned Principal District Judge, Thoothukudi vide order dated 16.09. 2010 in C.M.A.No.5/2006 and quash the same and consequently direct the second respondent to re-assess the property tax after giving reasonable opportunity to the petitioner.

Prayer in W.P.(MD)No.7874 of 2011: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari, to call for the records relating to impugned Demand Notice issued by the second respondent vide A2/21522/2001 dated 20.06.2011 and quash the same.

For Petitioner : Mr. D.Shanmugaraja Sethupathi
For 1st Respondent : Mr.T.R.Janarthanam
Additional Government Pleader.
For Respondents 2&3: Mr.S.Sajibino
(in both W.Ps)

COMMON ORDER

The petitioner's assessment to the property tax was made under Rule 8(1) of the Tamil Nadu District Municipalities Act, 1920 under the Taxation and Finance Rules. As against the same, the petitioner had filed a revision before the second respondent and by an order dated 14.02.2003, the second respondent had informed the petitioner that his application for revision was belatedly made after a period of 30 days and hence rejected the petitioner's request. Consequent to the order dated 14.02.2003, a demand was raised by the second respondent calling upon the petitioner to pay the re-assessed tax within 15 days. Aggrieved against the order of the Commissioner and the consequent demand notice received by the petitioner on 28.06.2003, the petitioner had filed an appeal before the Taxation Appeal Committee, who is the third respondent herein, on 05.07.2003. The second respondent, by the impugned order dated 02.12.2003, returned the petitioner's appeal. Aggrieved against the same, W.P(MD)No.7873 of 2011 has been filed. W.P(MD)No.7874 of 2011 has been filed challenging the demand notice issued by the second respondent dated 20.06.2011.

2.Though the petitioner has raised several grounds challenging the impugned orders, one of the grounds raised is that the Commissioner who was the original authority and who had passed the order impugned in the appeal, had now passed orders in the appeal petition also.

3.On a perusal of the impugned order, it is seen that the second respondent has indeed passed the order impugned in the appeal filed by the petitioner before the third respondent. Though the order goes to show that the papers are returned, on a perusal of the order, it is seen that he has given his reasoning as to why his own order should be sustained. It is well settled law that a person cannot be a Judge of his own cause.

4. The second respondent has now re-assessed the property tax by 12% which according to the petitioner should have been 6%, (i.e.,) 50% of the re-assessed amount. The petitioner is directed to file a fresh appeal against the order of the Commissioner, dated 14.02.2003 and the consequent demand notice received by the petitioner on 28.06.2003 before the Taxation Appeal Committee within a period of 15 days from the date of receipt of a copy of this order. It is needless to mention that on receipt of such an appeal, the Taxation Appeal Committee shall not insist for the

period of limitation prescribed for taking the appeal on file. The petitioner is directed to deposit 25% of the re-assessed property tax amount at the time of filing the appeal.

5.With the above observations, the impugned orders are set aside. The writ petitions stand allowed. No costs. Consequently, M.P.(MD)Nos.1, 1 and 2 of 2011 are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

sms/pnn

To
The Director,
Directorate of Municipal Administration,
Chepauk, Chennai.

+1CC to Mr.S.Saji Bino Advocate Sr.No.11225
+1CC to Mr.D.Shanmugaraja Sethupathi, Advocate Sr.No.10777

GJM/PM/PN/9.3.17-3p-4c

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