IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2018

CORAM :

THE HONOURABLE Mr.JUSTICE S.M. SUBRAMANIAM

W.P.No.14472 of 2011 and
W.M.P.No. 1 of 2011

Mahalaxmi Inn Pvt., Ltd.,
A Company incorporated under The Companies Act,
Registered Office, No.112, Chamiers Road,
Nandanam, Chennai - 600 035.
Rep. by its Director R. Sumerchand Bafna ... Petitioner

Vs

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

2. The Assistant Revenue Officer,
Corporation of Chennai, Zone VIII,
N.S.K. Salai, Chennai - 600 024. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in Z.O.VIII.R.D.C.No.R6/3070/2009 and to quash the order dated 26.05.2011 made therein and consequently to direct the respondents to forbear from levying, demanding and collecting from the petitioner the enhanced property tax pursuant to the said proceedings of the 1st respondent.

For Petitioner : Mr.T.M.Hari Raman
for M/s.Aruna Ganesh
For Respondents : Mr.R.Arunmozhi

O R D E R

The order dated 26.05.2011 issued by the Commissioner, Corporation of Chennai in respect of the property tax assessment of the premises belonging to the writ petitioner is under challenge in this writ petition.

2. The learned counsel appearing on behalf of the writ petitioner strenuously contended that the writ petitioner is running a star category hotel right from the year 2003 onwards. Thus, the initial categorization of the petitioner hotel as posh hotel was granted in favour of the writ petitioner by the Corporation of Chennai for the purpose of assessment of the property tax. Contrarily, the Corporation of Chennai, has re-assessed the property tax, by deleting the

writ petitioner hotel from posh category. Thus, the exorbitant amount of property tax is due to be recovered from the writ petitioner.

3. It is contended that the writ petitioner is running a hotel with all facilities equivalent to that of the star hotels. Thus, the premises belonging to the petitioner must be categorized as star hotel and accordingly, the benefit of 10% assessment is to be granted for the purpose of assessment of property tax. In respect of all other hotels, 20% is fixed and the petitioner is assessed to 20%, which causes great hardship to the petitioner. It is further contended that the petitioner is regularly paying the property tax, as assessed by the Corporation originally and now the enhanced property tax is exorbitant, which requires reconsideration by the authorities. With reference to the contention, the learned counsel for the writ petitioner states that the Government issued an order in G.O.Ms.No.856, Rural Development and Local Administration Department, dated 19.04.1972, which states that posh hotels and lodging houses are to be assessed at 10% of the gross income for the assessment of property tax. Taking note of the aforesaid Government Order, the first assessment to the writ petitioner was made in proceedings dated 16.12.2003. Accordingly, 10% of the gross income was taken for the purpose of assessing the property tax.

4. The writ petitioner was paying the said property tax continuously. Earlier, a writ petition was filed in W.P.No.17096 of 2009 challenging the final warrant notice dated 03.08.2009 for a sum of Rs.56,74,428/- and the subsequent assessment was issued under Notice No. R.D.H.S.A.No.09/09-10 dated 12.08.2009 in respect of Ward No.116, Bill No.0503, relating to Door No.112, Chamiers Road, Nandanam, Chennai - 600 035.

5. This Court passed an order setting aside the Final Warrant Notice dated 03.08.2009 and directing the authorities to consider the objections raised by the writ petitioner and pass final order on merits and in accordance with law, within a period of eight weeks. Pursuant to the said order of the Court, another assessment order was passed by the authorities. Thus, it is not as if petitioner was not aware of the re-assessment made by the Corporation. The re-assessment was made in the year 2009 itself, and the same was challenged by way of a writ petition before this Court. Thus, the property tax issue in respect of petitioner's premises is continuing for the past about nine years. Thus, the petitioner was very much aware of such disputes and discrepancies which are now raised by the learned counsel for the writ petitioner.

6. It is further contended that even in subsequent assessment issued in proceedings dated 26.05.2011, the writ petitioner hotel was categorized as star category. Thus, for all purposes, 10% of the gross income alone should be fixed for payment towards property tax and any further enhancement

is contrary to the Government Order issued in the year 1972.

7. The learned counsel appearing on behalf of the respondents opposed the contentions on the ground that the list of star hotels in Tamil Nadu, issued by the competent authorities are verified and the writ petitioner hotel is not coming under any of the star category. The writ petitioner hotel is not designated as a star hotel at all. Thus, they are not entitled for the benefit of 10% of the gross income for assessing the property tax and the writ petitioner is to be treated as 'Class-A' category hotel and therefore, the petitioner is liable to pay 20% of the gross income as property tax to the Corporation of Chennai.

8. The list of star hotels now produced before this Court also reveals that the name of the petitioner is not found in the said list. The writ petitioners is also unable to produce any such star category certificate issued by the competent authorities of the Government of India. Under these circumstances, this Court has to go by the list of star hotels, now produced by the respondent Corporation. As per the list, the writ petitioner hotel is categorized as 'Class-A' hotel. Accordingly, the petitioner is liable to pay 20% of the gross income towards property tax to the Corporation of Chennai.

9. The learned counsel for the petitioner states that the petitioner may be given an opportunity to apply before the competent officials for the purpose of obtaining such a star category certificate and in the event of granting such opportunity and time, the writ petitioner would be in a position to submit such certificate.

10. However, this Court cannot grant time for getting such certificate, from the competent authorities of the Government of India. It is left open to the writ petitioner to approach the competent authority so as to get any such certificate and in the event of getting the same, it is to be considered by the officials of the Corporation of Chennai, for fixation of property tax. However, as of now, the petitioner hotel is categorized as 'Class-A'. Thus, they are liable to pay 20% of the gross income towards property tax to the Corporation of Chennai, as per the Rules in forces.

11. The petitioner was also aware of the enhanced property tax and even earlier, the writ petition filed by the petitioner reveals that the revision was issued in the year 2009 itself. However, the writ petitioner continues to pay the old assessment without paying the enhanced property tax on the ground that the petitioner premises is a star category hotel. However, now it is made clear that the writ petitioner is not possessing any such valid star category certificate obtained from the competent authorities of the Government of India and further, on verification of the list of star hotels in Tamil

Nadu, the name of the petition is not found. Thus the petitioner is liable to pay 20% gross income towards property tax as assessed by the Corporation of Chennai. The assessment as of now, is enclosed in Page No.14 of the Additional Typed Set of papers filed by the writ petitioner. Accordingly, the petitioner is liable to pay the arrears of property tax amount of Rs.1,37,55,854/-.

12. In view of the facts and circumstances of the present writ petition on hand, the following orders are passed :

i. The relief as such sought for in the present writ petition stands rejected.

ii. The writ petitioner is directed to pay the entire arrears of property tax amount of Rs.1,37,55,854/- within a period of eight weeks from the date of receipt of a copy of this order.

iii. In the event of not paying the property tax arrears within the period stipulated above, the officials of the respondent Corporation are directed to initiate all further actions, by following the procedures as contemplated under law.

iv. The writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mkn/ssr

To

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

2. The Assistant Revenue Officer,
Corporation of Chennai, Zone VIII,
N.S.K. Salai, Chennai - 600 024.

+1cc to Ms.Aruna Ganesh, Advocate SR.NO.63351
+1cc to Mr.R.Arunmozhi, Advocate SR.NO.63349

sm:4.10.2018