IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.09.2018

CORAM

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

W.P.No.596 of 2017
and
W.M.P.No.641 of 2017

1.C.Kantilal
2.K.Jeetendra Kumar
3.K.Bharath Kumar
4.A.Madhu
5.K.Pravin Kumar .. Petitioners

vs

1.The Commissioner,
Corporation of Chennai,
Ripon Building,
Park Town,
Chennai - 600 003.

2.The Revenue Officer,
Zone-V, Corporation of Chennai,
Ripon Building,
Park Town,
Chennai - 600 003. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned Demand Notice dated Nil of the 2nd respondent herein in respect of the petitioner's property situate at Old Door No.50, New No.22 Strotten Muthiah Mudali Street, Sowcarpet, Chennai - 600 001 and quash the same.

For Petitioners : Mr.AR.L.Sundaresan, Senior Counsel for M/s.AL.Ganthimathi

For Respondents : Mr.T.C.Gopalakrishnan

O R D E R

The Demand notice issued by the respondent Corporation in respect of the arrears of property tax, due to the premises, which belongs to the writ petitioners is under challenge in this writ petition.

2.The learned Senior Counsel appearing on behalf of the writ petitioners state that the assessment order, including the provisional assessment order had not been served to the writ petitioners. Thus, the enhancement of the property tax made unilaterally by the respondent Corporation is untenable. This apart, the enhancement of property tax was effected with retrospective effect, which is impermissible. It is further contended that no opportunity was given to the writ petitioners to submit their objections, in respect of the enhancement of property tax made in the demand order.

3.The learned Senior Counsel appearing for the petitioners state that the writ petitioners are paying the property tax based on the original assessment made by the Corporation and the enhanced assessment of property tax is not in accordance with the procedures as contemplated under law. Thus, the impugned order is liable to be set aside.

4.The learned counsel appearing on behalf of the respondent Corporation opposed the contentions by stating that during the self- declaration made by the writ petitioners, the very measurement of the constructed portion was erroneously furnished to the Chennai Corporation. In fact the writ petitioners have furnished the details, stating that they are possessing the constructed area of 17,700 sq.ft. But, during the inspection, it was found by the competent authorities that the writ petitioners are owning the constructed area of 19,908 sq.ft and therefore, the assessment was made originally based on the false facts provided by the writ petitioners.

5.This apart, during the year 1998-99, enhancement of property tax was made in respect of all the assesses in Chennai City and thereafter, the enhancement is made with reference to the petitioners premises based on the increased area of the constructed building. Thus, there is no irregularity in the procedures adopted for enhancement of tax which was made uniformly to all the neighboring residents. The writ petitioners have not made out any ground relating to discrepancies. Further it is clarified that the enhanced assessment was made in respect of the petitioners premises with effect from 2009-10. The writ petitioners had accepted the assessment made in the year 1998-99. However, the petitioners dispute the enhancement made with effect from the year 2009-2010 onwards.

6.The learned counsel appearing for the respondents further states that there is no infirmity in respect of the order passed by the competent authorities regarding the revised assessment and enhancement of the property tax. The same was done by following the procedures as contemplated under the Rules. If at all, the writ petitioners are aggrieved from and out of the said assessment, it is left to the writ petitioners to approach the appellate authority namely the Commissioner, Greater Chennai Corporation and thereafter, to the Taxation Appellate Tribunal under the provisions of the Chennai City Municipal Corporation Act.

7.Thus, this Court is of an opinion that the enhancement of property tax was made in respect of the petitioners premises with effect from the year 2009-2010. The Escaped assessment also was made and accordingly, the demand notice was issued to the writ petitioner. The assessment order has already been passed by the competent authority in respect of the premises belongs to the writ petitioners. It is contended that the copies were not served to the petitioners. Even in that case, there is no impediment for the writ petitioners to approach the Appellate authorities, setting out all the grounds raised in the present writ petition. This apart, further appeal to the Taxation Appellate Tribunal is also empowered to deal with all such legal grounds raised in the writ petition. Thus, the petitioner has to exhaust the statutory remedies provided under the Chennai City Municipal Corporation Act.

8.This being the factum of the case, the petitioner is liable to pay the arrears of property tax amount of Rs.5,88,833/-(Rupees Five Lakh, Eighty Eight Thousand, Eight Hundred and Thirty Three only). It is left open to the writ petitioners to approach the Appellate authority as well as the Taxation Appellate Tribunal in the manner known to law, if any discrepancy arises in respect of the errors in calculation or otherwise. Accordingly, the following orders are passed:

(1) The relief as such sought for in the present writ petition stands rejected.

(2) The writ petitioner is directed to pay the property tax arrears amount of Rs.5,88,833/-(Rupees Five Lakh, Eighty Eight Thousand, Eight Hundred and Thirty Three only) within a period of four weeks from the date of receipt of a copy of this order.

(3) In the event of not paying the property tax within a time stipulated above, the respondent Corporation is directed to initiate all further action to recover the arrears of property tax by following the procedures as contemplated under law.

The copy of the assessment order is now furnished to the learned counsel for the petitioner by the learned counsel appearing on behalf of the respondents.

9.Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sk/kak

To

1.The Commissioner,
Corporation of Chennai,
Ripon Building,
Park Town,
Chennai - 600 003.

2.The Revenue Officer,
Zone-V, Corporation of Chennai,
Ripon Building,
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+1cc to Mr.T.C.Gopalakrishna,Advocate, S.R.No. 64036
+1cc to Mr.AL.Gandhimathi, Advocate, S.R.No.64022

W.P.No.596 of 2017

KAN(CO)

rrs 17/10/2018