IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.R.P.No. 1038 of 2010

D.Paramasivam ... Petitioner

Vs.

1) The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai.

2) The Assistant Revenue Officer,
Zone No.5, Ward No.71,
Corporation of Chennai,
Rippon Building, Madras 600 003 ... Respondents

Prayer: Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the order T.A.T.No.266 of 2009 on the file of Taxation Appeals Tribunal, Corporation of Chennai and dated 29.01.2010 and further direct the respondents to act in accordance with law.

For Petitioner : Mr.V.Raghavachari

For RR 1 & 2 : M/s Dr.C.Ravichandran

O R D E R

The instant Civil Revision Petition has been filed by the petitioner against the order dated 29.01.2010 passed by the Taxation Appeals

Tribunal. Under the Chennai City Municipal Corporation Act, an order passed by the Taxation Appeals Tribunal is an appealabe order. Schedule 4 of the Chennai City Municipal Corporation Act 1919, Rule 15 provides for an Appeal against the order of the Taxation Appeals Tribunal. Rule 15 reads as under:

> "An Appeal against the decision of the Tribunal may be filed within thirty days from the date if the order to the Principal Judge, City Civil Court.
>
> Rule 15 of the new rule provides for an appeal against a decision of the Tribunal being filed within 30 days from the date of the order of the Principal Judge, City Civil Court, instead of Chief Judge, Court of Small Causes as per the old Rule. Under the new Rule, it is to be noticed that the revisional power of the High Court is taken away."

2. Instead of filing an Appeal, the petitioner has approached this Court, under Section 115 of Civil Procedure Code, by filing this Civil Revision Petition. An Appeal should have been filed before the Principal Judge, City Civil Court within a period of 30 days from the date of the order passed by the Taxation Appeals Tribunal. The order of the Taxation Appeals Tribunal is dated 29.01.2010 and the instant Civil Revision Petition was filed on 03.03.2010.

3. Admittedly, the Civil Revision Petition was filed within 30 days from the date of receipt of the order of the Taxation Appeals Tribunal.

Learned counsel for the respondent pointed out that the Civil Revision Petition is not maintainable and only an Appeal is maintainable, as per the provisions of the Chennai City Municipal Corporation Act.

4. This Court having gone through the said provision, is also in agreement with the submission made by the learned counsel for the respondent. The petitioner has approached a wrong forum instead of approaching the Principal Judge, City Civil Court against the order passed by the Taxation Appeals Tribunal.

5. Learned counsel for the respondent has no objection for the petitioner, now approaching the Principal Judge, City Civil Court as per the provisions of the Chennai City Municipal Corporation Act against the order dated 29.01.2010 passed by the Taxation Appeals Tribunal. This Court, therefore, directs the petitioner to approach the Principal Judge, City Civil Court, Chennai and challenge the order dated 29.01.2010 passed by the Taxation Appeals Tribunal. Since he has approached this Court, which is a wrong forum, as per the provisions of the said Act unknowingly and unintentionally, the delay which may have arisen is condoned by this Court and the Principal Judge, City Civil Court, Chennai is directed to entertain the Appeal without a condone delay application, if

<u>ABDUL QUDDHOSE, J.,</u>

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the Appeal is filed within 30 days from the date of a receipt of copy of this order by the petitioner.

6. On filing the Appeal, the Principal Judge, City Civil Court shall entertain the Appeal and dispose of the Appeal on merits and in accordance with law. Registry is directed to return the original order dated 29.1.2010 passed by the Taxation Appeals Tribunal to the petitioner to enable him to file the Appeal as directed by this Court. The **Civil Revision Petition is disposed** of accordingly. However, there shall be no order as to costs.

04.04.2018

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To

1) The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai.

2) The Assistant Revenue Officer,
Zone No.5, Ward No.71,
Corporation of Chennai,
Rippon Building, Madras 600 003

Order in
<u>C.R.P.(NPD)No. 1038 of 2010</u>