IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.21761 of 2018
and
W.M.P.No.25525 of 2018

M/s. Apollo Hospital Enterprise Ltd.,
Rep. by its Vice President - Finance &
Company Secretary S.M.Krishnan,
New No.201, Old No.154, Periyar EVR Salai,
Kilpauk, Chennai - 600 010. ... Petitioner

Vs.

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

2.The Regional Deputy Commissioner,
(Central), Greater Chennai Corporation,
Zone - VIII, 36A, Pulla Avenue,
Shenoy Nagar, Chennai - 600 030.

3.The Zonal Officer,
Zone - VIII (Ward No.103),
Corporation of Chennai, Chennai. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for records relating to order of the second respondent made in Z.O.VIII.R.D.C.No.R2/365/2018 dated 19.07.2018, to quash the same and to consequently direct the respondents to continue to accept the previous assessed tax for the petitioner's premises.

For Petitioner : Mr.L.Chandrakumar
For Respondents : Mr.T.C.Gopalakrishnan,
Standing Counsel

O R D E R

The petitioner is aggrieved against the order passed by the second respondent dated 19.07.2018, levying property tax on the petitioner at Rs.12,96,345/- per half year with effect from 1/2012-2013.

2. The petitioner is a hospital and being assessed to property tax at the hands of the respondents. A sum of

Rs.1,63,722/- was originally assessed for the half yearly tax and the petitioner is not having any grievance against such assessment and on the other hand, is paying the same continuously all along. However, when the respondents re-fixed the assessment at the rate of Rs.12,96,345/- per half year with effect from I/2012-2013 and demanded the arrears to the tune of Rs.1,35,91,476/- by issuing a proceedings dated 22.11.2017, the petitioner challenged the same before this Court in W.P.No.32424 of 2017.

3. This Court, by an order dated 13.12.2017, disposed the said writ petition with a direction to the respondent Corporation to cause an inspection of the petitioner's building and prepare an inspection report and also to furnish a copy of the said report to the petitioner so as to enable them to file their objections to the said report. Thus, this Court has directed the respondent Corporation to take a final decision, after giving due opportunity of personal hearing to the petitioner. The petitioner also questioned the retrospective revision of the property tax, as the same is not permissible. This Court, while disposing the above said writ petition also directed the Corporation to consider the said objection, while taking the final decision on the property tax payable by the petitioner. Consequent upon such order passed by this Court in the said writ petition, an inspection was conducted on 31.01.2018 and a report was also furnished to the petitioner, they in turn filed their reply on 22.05.2018. However, the second respondent passed the impugned proceedings confirming the demand of Rs.12,96,345/- per half year.

4. Mr.L.Chandrakumar, learned counsel for the petitioner submitted that the impugned order is erroneous on the face of it, since the respondent has made a calculation error by including the service charges collected by the petitioner from the patients towards resident doctor, nursing charge, food & beverages and clinical, along with the bed cost to arrive at the property tax. In other words, it is the contention of the learned counsel that the charges collected by the petitioner towards the service rendered under the above said two heads, can never form part of value of the property so as to include those charges also for the purpose of arriving at the property tax. He has invited this Court's attention to the objection filed by the petitioner dated 22.05.2018 to substantiate the above said contention. Therefore, the learned counsel submitted that this Court can consider the above aspect in this writ petition itself without driving the petitioner to file a statutory appeal.

5. On the other hand, the learned Standing Counsel appearing for the respondents Corporation submitted that the impugned order was passed, after making the inspection and also considering the inspection report as well as the reply submitted by the petitioner. Therefore, he submitted that the petitioner cannot have any grievance. However, he fairly

submitted that the service charges collected by the petitioner towards the resident doctor, nursing charge, food & beverages and clinical, cannot be added to the value of the property in order to arrive at the property tax payable by the petitioner.

6. Heard both sides.

7. There is no dispute to the fact that the petitioner has already questioned the enhancement of the property tax before this Court by filing the earlier writ petition in W.P.No.32424 of 2017. It is seen that this Court has remanded the matter back to the respondents for re-considering the issue once again after giving due opportunity of hearing to the petitioner. Perusal of the objection filed by the petitioner dated 22.05.2018, which is an affidavit of declaration would show that the petitioner has specifically stated at paragraph Nos.3 and 4 of the said affidavit that the charges collected for resident doctor, nursing, food & beverages and clinical are nothing to do with the room rent. For better appreciation, the said paragraph Nos.3 and 4 are extracted as hereunder:

> "...3. I furnish hereunder the details relating to room type, number of beds and total charges.

Room Type	Number of Beds / Rooms	Bed Cost	Resident Doctor & Nursing	Food & Beverages and clinical	Total
General Ward	20	450	1,080	270	1,800
A/C Single	20	1,150	2,760	690	4,600
A/C Double	4	1,750	4,200	1,050	7,000
Suite Room	1	4,500	10,800	2,700	18,000

> The said total charge includes bed cost, resident doctor and nursing charge and food & beverages and clinical charge. From the above details the bed cost only shall be taken in to account towards the room rent and other categories and nothing to do with room rent.
>
> 4. I further state that there is only 60% of bed occupancy availed in the said hospital for the past 5 years. Subject your requirement will provide the auditor certificate in connection with aforesaid subject."

8. However, it is seen from the impugned order that the authority has taken the total figure given in the said declaration as the value to arrive at the property tax. As it is contended by the learned counsel for the petitioner that such total figure cannot represent the value of the property and on the other hand, only the bed cost has to be taken as the value of the property to arrive at the property tax, I am of the view that it is a matter for re-consideration by the second respondent, after giving due opportunity of personal hearing to the petitioner once again.

9. Needless to say that the respondents, while passing the property tax, have to confine only to the value of the property and such assessment should be made only in accordance with law, as provided under the relevant statute. Therefore, whether the service charges collected by the petitioner towards the service rendered by resident doctor, nursing, food & beverages and clinical, can also be included along with the cost of the property, is a question certainly has to be addressed by the respondents, while passing the fresh order.

10. Therefore, this Court is convinced to set aside the impugned order and remit the matter back to the second respondent for passing fresh order on merits and in accordance with law, after hearing the petitioner. Such exercise shall be done by the second respondent within a period of four weeks from the date of receipt of a copy of this order. The petitioner is directed to pay the admitted tax liability without any arrears. The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

krk/vri

To

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(Central), Greater Chennai Corporation,
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3.The Zonal Officer,
Zone - VIII (Ward No.103),
Corporation of Chennai, Chennai.

+1cc to Mr.L.Chandrakumar, Advocate SR.NO.73655
+1cc to Mr.T.C.Gopalakrishnan, Advocate SR.NO.73378

SJ(CO)
sm:19.11.2018