IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2018

C O R A M

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Petition No.7142 of 2013
& M.P.No.1 of 2013 & M.P.No.1 of 2014

E.Chitraleka ... Petitioner

Vs.

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

2. The Assistant Revenue Officer,
Zone IX Division 140,
Corporation of Chennai,
Office at Anna Salai, Saidapet,
Chennai-600 015. ... Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified Mandamus to call for the records of the 2nd respondent under reference Z.O.XIII/R.D.C.No.Assr./SPL/2012-2013,dated 15.02.2013 and quash the same and direct the 2nd respondent to invoke Section 107 (9) of MCMC Act, 1919 and set off the future liability of the property tax payable by the petitioner in respect of her property situate at 8(18), Reddy First Street, Ekkaduthangal, Chennai-600 032 in accordance with the provisions contained under Section 107(9) of MCMC Act in accordance with law.

For Petitioner : Ms.Vasudha Thiagarajan

For Respondents : Mr.A.Nagarajan

O R D E R

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus to quash the proceedings of the 2nd respondent dated 15.02.2013 and direct the 2nd respondent to invoke Section 107(9) of Madras City Municipal Corporation Act, 1919 and set off the future liabilities of the property tax payable by the petitioner in respect of the property situated at

No.8(18), Reddy First Street, Ekkaduthangal, Chennai-600 032.

2. The case of the petitioner is that the 2nd respondent issued a notice dated 22.08.2007 fixing the monthly rental value at Rs.12,995/- and the annual value at Rs.1,41,905/-. It is further stated that the 2nd respondent computed the half-yearly tax liability for the building owned by the petitioner at Rs.17,596/- as against the existing tax as per the previous assessment year at Rs.7,386/-.

3. It is further stated that the petitioner has preferred an appeal before the Revenue Officer, Corporation of Chennai. The petitioner has been paying the annual property tax at Rs.14,772/-. It is further stated that the tax was reduced from Rs.17,596/- to Rs.16,662/- and the petitioner was informed that an appeal shall lie before the Taxation Appellate Tribunal at Corporation of Chennai by communication dated 20.10.2008. Subsequently, it is stated that the respondents have revised the fair rent for the premises at Rs.23,078.18 from the second half year of 2001-2002 and sought for recovery of taxes, according to the assessment made by the respondent. Thereafter, the petitioner has filed a writ petition in W.P.No.1803 of 2009 and this Court issued a direction to the 2nd respondent to pass fresh orders after giving opportunities to the petitioners and to pass fresh orders. Since, the order of this Court in earlier writ petition in W.P.No.1803 of 2009 was not complied with the petitioner filed a Contempt Petition in Cont.P.No.806 of 2010. However, this Court directed the petitioner to file an appeal before the Taxation Appellate Tribunal. Accordingly, the petitioner has preferred an appeal wherein the tax was reduced in view of the reduction of annual rental value to Rs.1,19,028/-. As per the order of the Appellate Tribunal the liability of the petitioner was fixed to Rs.14,760/- with effect from first half year of 2009-2010. Since, the petitioner has been paying the tax at the rate of Rs.16,662/-, it is stated that the second respondent is holding a sum of Rs.28,530/- is in excess. The fact that a sum of Rs.28,530/- is available with the respondent, it is admitted by the learned counsel appearing for the 2nd respondent.

4. Hence, this Writ Petition is allowed and the petitioner's liability to pay tax as fixed by the appellate tribunal is confirmed. The excess amount of Rs.28,530/- which is available with the respondent to the credit of petitioner shall be adjusted by the respondents towards the payment of property tax payable in future. It is made clear that the amount of excess is calculated by taking into account, the tax paid by the petitioner as on date. The excess amount of Rs.28,530/- shall be adjusted by the respondents from the tax payable by petitioner

for the first half year of 2018-2019. It is not disputed that the petitioner has paid the tax upto the 2nd half year of 2017-2018.

5. In the result, this Writ Petition is allowed as per the terms indicated above. No Costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Assistant Revenue Officer,
   Zone IX Division 140,
   Corporation of Chennai,
   Office at Anna Salai, Saidapet,
   Chennai-600 015.

+1 cc to Mr.R.Thiagarajan, Advocate Sr.No.64489

W.P.No.7142 of 2013

RR(CO)
CSL/17.10.2018