

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.04.2018
CORAM
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.15806 & 15807 of 2017
&
W.M.P.Nos.17113 & 17114 of 2017

M/s.DBS Corporate Services Pvt. Ltd.,
Represented by its Manager Mr.Balaji.K.
No.2/31 A, Cathedral Garden Road
Nungambakkam, Chennai - 600 034 ... Petitioner
in both WPs

vs

The Commissioner
The Corporation of Chennai
Ripon Building, No.16, E.V.R Periyar Road
Chennai - 600 003 ...Respondent
in W.P.No.15806 of 2017

1.Chennai Metropolitan Water Supply and Sewerage Board
Represented by the Managing Director
No.1, Pumping Station Road, Chintadripet
Chennai - 600 002

2.Chennai Metropolitan Water Supply and Sewerage Board
Represented by the Senior Accounts Officer
AREA IX, No.1, Dr.Ranga Road
Abiramapuram, Chennai - 600 018

3.The Commissioner
The Corporation of Chennai
Ripon Building
No.16, EVR Periyar Salai
Chennai - 600 003 ... Respondents

W.P.No.15807 of 2017

Prayer in W.P.No.15806 of 2017 :- Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the impugned order Z.O.IX/R.D.C.No.Spl/2016-17 dated 06.06.2016 issued by the respondent office in respect of the petitioner's premises under assessment Bill No.09-113-00079-000 and quash the same and consequently direct the respondent to receive from the petitioner, property tax on the basis of previous annual value of Rs.17,706,78/-.

Prayer in W.P.No.15807 of 2017 :- Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the demand for water tax at the rate of Rs.85,927/- towards Water Tax from the second half year 2009-10 together with arrears and surcharge of Rs.2,09,494/- from the second half year 2009-10 till date in respect of the petitioner's premises under assessment Bill No.09-113-00079-000 and consequently quash the impugned order dasted 06.06.2016 of the 2nd respondent.

For Petitioner : Mr.V.Rajagopal

For Respondent : Mr.T.C.Gopalakrishnan
in W.P.No.15806 of 2017

For Respondents
in W.P.No.15807 of 2017:Mr.M.Jothikumar for R1 &R2

Mr.T.C.Gopalakrishnan for R3
in W.P.No.15807 of 2017

C O M M O N O R D E R

The petitioner has filed this writ petition challenging the notice issued by the Corporation of Chennai and the Chennai Metropolitan Water Supply and Sewerage Board demanding arrears of property tax for the period 1st half year 2016-17 as well as water and sewerage tax and directing the petitioner to pay the same within three days from the date of receipt of the impugned notice failing which the petitioner was informed that an action would be initiated under the provisions of the Chennai City Municipal Corporation Act, 1919 and the Chennai Metropolitan Water Supply and Sewerage Act, 1978.

2.The petitioner's case is that the impugned demand is a result of retrospective revision of Property Tax with effect from 2009-10 without any opportunity to the petitioner and without even serving any revised Assessment Orders. Therefore, it is the contention of the petitioner that if there is an enhancement of Property Tax, then the procedure contemplated under Section 98-A Chennai City Municipal Corporation Act, 1919 has to be followed and the assessee is entitled to reasonable opportunity to submit their objections. Therefore, it is submitted that without affording an opportunity to object to the re-fixation of the annual value of the building, the respondents were not justified in unilaterally refixing the Property Tax.

3. The writ petitions were entertained and the interim orders were granted. From the material papers placed before this Court it is seen that the petitioner was not afforded an opportunity before the Corporation of Chennai revised the Property Tax. Therefore, the respondent could not have issued the impugned notice which appears to be a step ahead of distraint proceedings. Thus, the respondent before revising the Property Tax, should have afforded an opportunity to the petitioner and thereafter, proceeded further in accordance with law. The same reasoning equally apply to the demand raised by Chennai Metropolitan Water Supply and Sewerage Board as the demand is pursuant to revised Property Tax demand by the Corporation of Chennai. Thus, demand raised by Chennai Metropolitan Water Supply and Sewerage Board is also in violation of principles of natural justice. However, the learned counsel for the petitioner submitted that the pre-revised property tax demanded by the Corporation of Chennai as well as the Water and Sewerage tax has been remitted by the petitioner without default. The respondents are unable to contravert the said submission nor any record is placed before this Court to show that the petitioner is a defaulter of even the admitted tax liability.

4. In any event, to safeguard the interest of the revenue, the following directions are issued:

The writ petitions are allowed and the impugned orders are set aside. The officials of the respondent Corporation are directed to cause an inspection of the petitioner's building after notice to the petitioner. The measurements and the physical features of the building shall be noted in the presence of the authorized representative of the petitioner and the inspection notes should be signed both by the inspecting officer as well as the authorized representative of the petitioner. Based on such inspection report, a pre-assessment notice shall be issued by the respondent Corporation to the petitioner giving them 7 days time to file their objections. If any objections are filed, the same shall be considered and final assessment orders shall be passed. Based on such final Assessment Order, Chennai Metropolitan Water Supply and Sewerage Board is directed to issue notice and proceed with collection of water and sewerage tax. The petitioner is directed to pay the Property Tax as well as the Water and Sewerage Tax at the pre-revised rate and there shall be no default. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

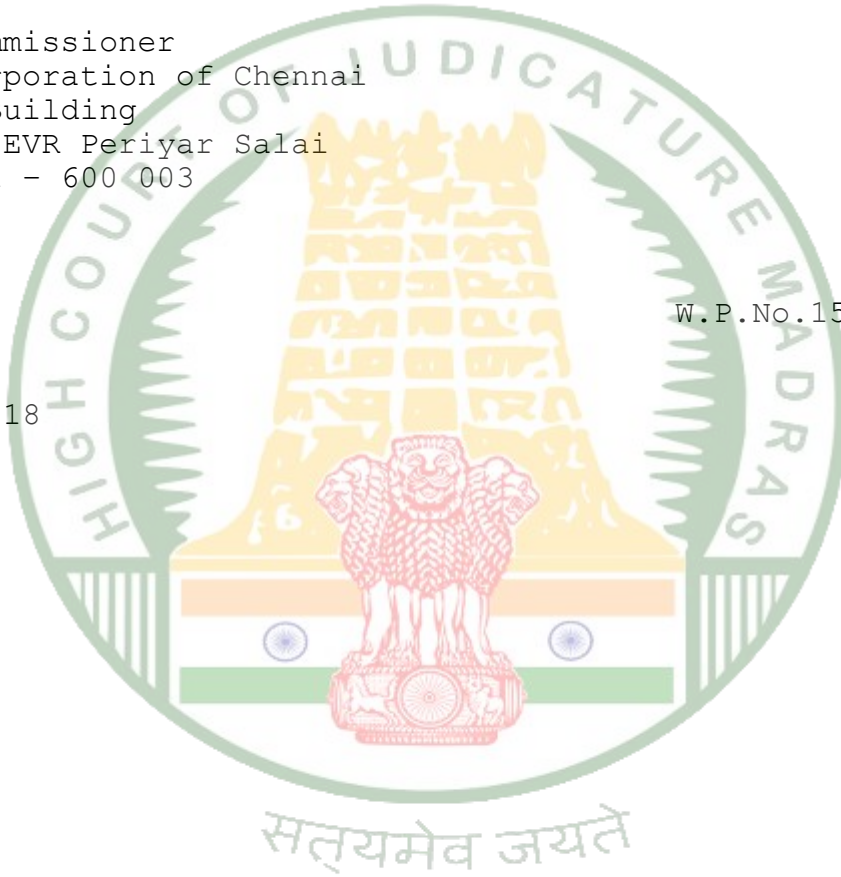
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To

- 1.The Managing Director
Chennai Metropolitan Water Supply and Sewerage Board
No.1, Pumping Station Road, Chintadripet
Chennai - 600 002
2. The Senior Accounts Officer
Chennai Metropolitan Water Supply and Sewerage Board
AREA IX, No.1, Dr.Ranga Road
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3. The Commissioner
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