In the High Court of Judicature at Madras

Dated : 12.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.14053 of 2018 &
WMP.Nos.16607 to 16609 of 2018

City Tower Hotels Pvt.Ltd.,
rep.by its Authorized
Signatory C.G.Biju ...Petitioner

Vs

1.The Commissioner, Corporation of Chennai, Chennai-3.

2.The Zonal Officer, Zone V, Greater Chennai Corporation, Basin Bridge, No.61, Basin Bridge, Chennai-21.

3.The District Revenue Officer, Zonal Office-V, No.61, Basin Bridge, Chennai-21.

4.The Assistant Revenue Officer, Greater Chennai Corporation, Zonal Office-V, No.61, Basin Bridge, Chennai-21. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in relation to the letter No.ZOVRDCR2/1574/2017 dated 21.3.2018 issued by the 3rd respondent, received by the petitioner on 03.5.2018, quash the same and direct the 3rd respondent or any other District Revenue Officer of Chennai Corporation to assess the assessment for the petitioner company by giving opportunity to the petitioner company.

For Petitioner : Mr.P.Subba Reddy

For Respondents : Mrs.Karthika Ashok

ORDER

Mrs.Karthika Ashok, learned Standing Counsel accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is before this Court for the second time challenging the revision of property tax in respect of their commercial building.

3. Earlier, the petitioner approached this Court and filed W.P.Nos. 24124 and 24125 of 2017 challenging the enhancement of property tax as arbitrary, unreasonable and without opportunity to the petitioner. This Court, after hearing the learned Standing Counsel for the Corporation, allowed the said writ petitions by a common order dated 07.9.2017 pointing out that there were inherent defects in the revision of property tax and those defects had gone to the root of the matter thereby affecting the very assessment proceedings.

4. While allowing the said writ petitions, this Court issued a direction to the Competent Authority of the respondent Corporation to cause an inspection of the petitioner's building in the presence of the authorized representative of the petitioner and take measurements and based on the notes of inspection, the respondent Corporation was further directed to issue provisional notice of assessment clearly indicating as to how they proposed to revise the property tax. The petitioner was also directed to be given 15 days' time to file their objections and on receipt of the objections, the Competent Authority of the respondent Corporation was directed to pass final assessment order on merits and in accordance with law. Till the procedure is completed, the petitioner was directed to remit the property tax at the pre-revised rate i.e Rs.96,299/- without default. The petitioner complied with the condition imposed and the respondent Corporation also complied with the condition, measured the property, gave show cause notice, received the petitioner's objections and passed a speaking order.

5. The learned counsel for the petitioner has vehemently contended that the petitioner alone has been discriminated, that there is absolutely no application of mind and that the very same enhancement, which was done, was set aside by this Court in the earlier writ petitions.

6. This Court is not in full agreement with the learned counsel for the petitioner, as this Court finds that the impugned order is a speaking order. To test the correctness of the impugned order, this Court needs to go into the factual

aspects as regards the occupancy of the petitioner, type of amenities provided, etc. These issues cannot be adjudicated in a writ petition and it has to be necessarily done before the Taxation Appeal Tribunal, which has been constituted under the provisions of the Chennai City Municipal Corporation Act, 1919. The said Tribunal has been conferred the powers of a Civil Court and it can receive evidence, re-appreciate the factual matrix and then take a decision in the matter as to whether the enhancement of property tax is in accordance with law. Therefore, the remedy provided under the Statute, being an efficacious and effective remedy, should not be allowed to be bypassed by the petitioner and more so, on the grounds raised by the petitioner. For the above reasons, the writ petition is held to be not maintainable.

7. Accordingly, the writ petition is dismissed. No costs. Consequently, the connected WMPs are also dismissed.

8. The petitioner is granted 15 days' time to file an appeal before the Taxation Appeal Tribunal of the respondent Corporation and if the same is filed along with a copy of this order, the Taxation Appeal Tribunal shall entertain the appeal without rejecting the same on the ground of limitation and proceed to take a decision on the appeal subject to the petitioner complying with the condition of pre-deposit. For a period of 15 days, the respondent Corporation shall not initiate any coercive action against the petitioner.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

RS
To

1.The Commissioner, Corporation of Chennai,
Chennai-3.

2.The Zonal Officer,
Zone V,
Greater Chennai Corporation,
Basin Bridge,
No.61, Basin Bridge,
Chennai-21.

3.The District Revenue Officer,
Zonal Office-V,
No.61, Basin Bridge,
Chennai-21.

4.The Assistant Revenue Officer,
Greater Chennai Corporation,
Zonal Office-V,
No.61, Basin Bridge,
Chennai-21.

+1CC to Mr.P.S.Subbareddy, Advocate Sr.36458
+1cc to Mr.A.Karthika Ashok, Advocate Sr.36434

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srg 18/06/2018