IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2018

CORAM

THE HON'BLE Mr. JUSTICE SUBRAMONIUM PRASAD

W.P.No.23542 of 2009

E.Chandramohan ... Petitioner

Vs.

1. The Director of Municipal Administration
   Chepauk, Chennai - 600 005.

2. The Commissioner,
   Municipal Corporation,
   Erode.

3. The Commissioner,
   Udumalaipettai Municipality,
   Tiruppur District. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 1st respondent in Lr.No.61803/06-K1 dated 22.03.2007, (Now the Director of Municipal Administration, Chennai) in pursuance of the Order passed by the 2nd respondent Erode Municipal Commissioner No.C1/11914/97 dated 01.02.2007 (Now The Commissioner of Municipal Corporation, Erode) and the 3rd respondent Udumalaipettai Municipal Corporation N.O.C. Letter No.Na.Ka.No.6182/2006-C1 dated 02.03.2007 with regards to the recovery of Time Barred Arrears of Debt and quash the same consequentially direct the respondents to refund the attached amount of Rs.93,624/- from DCRG amount of the petitioner with 18% interest from the date of retirement.

For Petitioner : Mr.A.R.Nixon
For Respondent 1 : Mr.M.Sricharan Rangarajan
Additional Government Pleader

For Respondents 2 & 3: Mr.P.Srinivas

ORDER

The petitioner who was appointed as a Junior Assistant in the office of the Municipal Corporation, Erode. The Professional Tax Act 21/1992 was brought in for collection of Professional Tax. The petitioner who was working as a Revenue Assistant during 1992-93 to 1995-96, was served with a notice dated 05.07.2006 as to why a sum of Rs.73,098/- should not be collected from him as his share towards failure to collect the Professional Tax. The petitioner gave his reply to the show cause notice contending that notice has been issued to him after 10 years and therefore it is barred by limitation. It was further contended, it was the responsibility of his successor to collect the tax and he cannot be saddled with any liability for the failure on the part of his successor to collect the tax.

2. The respondent admittedly, without holding any enquiry, has passed the impugned order which directs recovery of an amount of Rs.73,098/- from the DCRG. The petitioner has attained superannuation on 31.03.2006. The corporation could not have passed the impugned order without conducting an enquiry. The impugned order could not have been passed only on the basis of the explanation given by the petitioner to the show cause notice. The impugned order dated 01.02.2007 passed in proceedings No.Na.Ka.No.C1/11914/97 and the order dated 02.03.2007 passed by the Commissioner of Udumalaipettai Municipal Tiruppur District in proceedings No.Na.Ka.No.61803/06/K1 are set aside.

3. Therefore, the respondents are directed to refund the said amount of Rs.73,098/- with interest at the rate of 6% within a period of eight weeks from the date of receipt of a copy of this order.

4. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Director of Municipal Administration
   Chepauk, Chennai - 600 005.

2. The Commissioner,
   Municipal Corporation,
   Erode.

3. The Commissioner,
   Udumalaipettai Municipality,
   Tiruppur District.

+1cc to Mr.A.R.Nixon, Advocate Sr.62446
+1cc to Mr.P.Srinivas, Advocate Sr.62494

W.P.No.23542 of 2009

rk[co]
srg 15/10/2018