IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17147 of 2018
and
W.M.P.No.20409 of 2018

R.Azhvar ...Petitioner

Vs.

1. The Commissioner
   Thiruvannamalai Municipality,
   Thiruvannamalai.

2. The Revenue Officer,
   Thiruvannamalai Municipality,
   Thiruvannamalai. ...Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the impugned notice of the 1st respondent vide M.F.No.25.1-II, Thiruvannamalai Municipality dated 17.05.2018 with reference to the Property Tax Assessment No.040/035/00388-40/28383 for the sum of Rs.2,70,237/- on the petitioner's property in Door No.91-E, Thirukoilur Road, Thiruvannamalai and to quash the same.

For Petitioner:Mr.R.Subramanian
For M/s.S.Govindraman

For Respondent:Mr.B.Anand,
Government Advocate

ORDER

The order of property tax assessment issued by the first respondent in proceedings dated 17.05.2018 is under challenge in this writ petition.

2.The writ petitioner is the owner of the land at No.91-E, Thirukoilur Road, Thiruvannamalai and constructed a marriage hall called Kasthuri Azhwar Thirumana Mandapam.

3.The grievance of the writ petitioner is that the assessment of property tax had been done by the respondents without even providing an opportunity to the writ petitioner to submit his defence.

4.The learned counsel appearing on behalf of the writ petitioner made a submission that a reasonable opportunity contemplated under provisions of the Act has not been provided to the petitioner and he is deprived of submitting his pleadings/objections/documents for the purpose of defending his case, regarding the assessment of property tax. The respondents have proceeded unilaterally and assessed the tax without considering various factors. The details regarding the assessments are also not furnished by the respondents in the impugned orders. Contrarily, the total amount of tax alone has been mentioned and the petitioner is unable to understand, how the respondents have decided the quantum of amount to be paid by way of the property tax. In the absence of details, the petitioner is unable to submit his explanation/objections in respect of the impugned order.

5.The learned counsel appearing on behalf of the respondents opposed the contentions by stating that the competent authorities have assessed the property tax based on the building constructed and based on the earlier assessments made, the area of the building has already been furnished to the respondent municipality and based on the area already measured, the revised property tax has been issued. However, this Court is of an opinion that an opportunity of defending the case is to be provided to the writ petitioner.

6.Admittedly, no such opportunity was given and on a perusal of the impugned order, this Court is of an opinion that even the show cause notice was not issued before passing the impugned order. Thus, the present writ petition is a fit case for remittance.

7.Accordingly, the impugned order passed by the 1st respondent vide M.F.No.25.1-II, Thiruvannamalai Municipality, dated 17.05.2018 with reference to the Property Tax Assessment No.040/035/00388-40/28383 is quashed. The respondents are directed to issue the show cause notice to the writ petitioner, setting out all the details, enabling the writ petitioner to submit his explanation/objections within a period of two weeks from the date of receipt of a copy of this order. On receipt of the show cause notice, the writ petitioner is directed to submit his explanation/objections and documents, if any, within a period of two weeks thereafter and on receipt of the explanations/objections from the writ petitioner, the respondents are at liberty to consider the case on merits and in accordance with law and pass final orders of assessment of property tax within a period of four weeks thereafter.

8.Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

drl

To

1. The Commissioner
   Thiruvannamalai Municipality,
   Thiruvannamalai.

2. The Revenue Officer,
   Thiruvannamalai Municipality,
   Thiruvannamalai.

+1cc to Mr.S.Govindaraman,Advocate,S.R.No.44789(25/07/2018)

W.P.No.17147 of 2018

BM 19/07/2018