IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.19020 and 19028 of 2018
and
W.M.P.Nos.22411 and 22416 of 2018

W.P.No.19020 of 2018:-

R.Masilamani,
S/o.Ramasamy Pillai. ... Petitioner

-vs-

1.The Commissioner,
Corporation of Chennai,
Ribon Building, Chennai-600 003.

2.The Assistant Revenue Officer,
Zone VII, Greater Chennai Corporation,
Ambathur, Chennai-600 053. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records pertaining to Revised Assessment Notice No.7/17-18/47046 dated 22.12.2017 passed by the first respondent and quash the same.

W.P.No.19028 of 2018:-

M.Ramesh,
S/o.Masilamani. ... Petitioner

-vs-

1.The Commissioner,
Corporation of Chennai,
Ribon Building, Chennai-600 003.

2.The Assistant Revenue Officer,
Zone VII, Greater Chennai Corporation,
Ambathur, Chennai-600 053. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records pertaining to Revised Assessment Notice No.7/17-18/47044 dated 22.12.2017 passed by the first respondent and quash the same.

For Petitioner : (in both W.Ps.)	Mr.R.Marudhachalamurthy
For Respondents : (in both W.Ps.)	Mr.T.C.Gopalakrishnan, Standing Counsel

COMMON ORDER

Heard Mr.R.Marudhachalamurthy, learned counsel for the petitioners and Mr.T.C.Gopalakrishnan, learned Standing Counsel for the respondents.

2.With the consent on either side, these writ petition are taken up for final disposal.

3.The petitioners, who are father and son, owners of two buildings in Venkatapuram, Ambathur, Chennai-600 053, have challenged the notices issued in Notice No.7 proposing to revise the annual value of the buildings and consequently, the Half Yearly property tax as well as the final warrant notices issued to them. It is seen that after the petitioners received the notices in Notice No.7, they have submitted objections and sent the same by registered post with acknowledgment due.

4.The learned Standing Counsel for the respondents submits that it is the fact that both the petitioners have objected to the revision of property tax and the representations were received by the Assistant Revenue Officer, Zone VII and an opportunity of personal hearing was granted on 20.07.2018. However, the petitioners did not turn up for the enquiry and consequently, the impugned notices have been issued.

5.From the material papers produced by the learned Standing Counsel for the respondents, it is seen that there is no proceedings issued in Form No.10 making a final assessment. One more factor to be noted is that the assessments are with retrospective effect. This retrospective revision of property tax is sought to be justified by the learned Standing Counsel for the respondents on the ground that the properties have been under assessed and therefore, it is a case of escapement of an assessment and the respondent - Corporation has power to revise the property tax in terms of Section 137-B of the Chennai City Municipal Corporation Act, 1919.

6.It may be true that the petitioners did not attend the enquiry. However, without issuing a final assessment order in Form No.10, the respondent could not have straightaway issued the warrant notice demanding property tax. Further, when the respondents do not dispute the receipt of the objections from the petitioners, they should have considered the objections and passed a speaking order. Since these procedures have not been followed, it is hold that the impugned distraint notices are in violation of the principles of natural justice and the procedure stipulated under the Act.

7.Hence, for the above reasons, the warrant notices issued to the petitioners are quashed and the matters are remanded to the second respondent for fresh consideration. The second respondent is directed to cause an inspection of the petitioners' buildings in the presence of the petitioners, after notice to the petitioners and based on the inspection and the objections given by the petitioners, fix a date for personal hearing and on the said date, the petitioners / authorized representatives of the petitioners should appear without seeking for an adjournment. After hearing the petitioners / authorized representatives of the petitioners, the second respondent shall pass a speaking order and then proceed to pass a final assessment order. It is well open to the petitioners to raise all contentions before the second respondent including the contention that the Government have recently issued an order in G.O.(Ms) No.73, Municipal Administration and Water Supply (MA.IV) Department dated 19.07.2018.

7.With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-W)

// True Copy//

Sub Assistant Registrar

To

1.The Commissioner,
Corporation of Chennai,
Ribon Building, Chennai-600 003.

2.The Assistant Revenue Officer,
Zone VII, Greater Chennai Corporation,
Ambathur, Chennai-600 053.

+1 cc to MR.R.MARUDHACHALAMURTHY, Advocate SR.No.50554

+1 cc to MR.T.C.GOPALAKRISHNAN, Advocate SR.No.50261

W.P.Nos.19020 and 19028 of 2018

NRJK
SMI/20.08.2018