IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.04.2019

CORAM
THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

WP. No.5984 of 2019
and
WMP. No.6809 of 2019

1.Mrs.K.Anandhi
2.Mrs.B.Parvathi .. Petitioners

vs.

1.The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chenai 600 003.

2.The Revenue Officer,
Greater Chennai Corporation,
Rippon Building,
Chenai 600 003.

3.The Assistant Revenue Officer,
Zone-9, Revenue Department,
Greater Chennai Coproration,
No.1, Lake View Area 4th Cross Street,
Nungambakkam, Chennai 600 020. .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the final warrant Notices for property tax payment vide DN 124/1082/2018 and DN-124/1083/2018 dated 10.03.2018 issued by the third respondent herein and Notice No.1, Property Tax General Revision 2018-2019 dated 26.09.2018 issued by the first respondent and quash both the said notices as non est in the eye of law and consequently direct the first respondent to follow the principles of natural justice based on the petitioner's representation dated 30.10.2018 and pass a detailed and speaking order within a time frame.

For Petitioners : Mr.K.Ashok Kumar

For Respondents : Mr.T.C.Gopalakrishnan,
Standing Counsel

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O R D E R

Mr.K.Ashok Kumar, learned counsel for the petitioners has raised a challenge on behalf of the petitioners to the notices for property tax payment vide DN 124/1082/2018 and DN-124/1083/2018 dated 10.03.2018 issued by the third respondent herein and Notice No.1, Property Tax General Revision 2018-2019 dated 26.09.2018 issued by the first respondent . The grievance of the petitioners is that though they have filed several objections to the demand raised on 19.03.2018, 27.07.2018 and 30.10.2018, the same have not been considered till date and no orders have been passed by the respondents.

2. Mr.T.C.Gopalakrishnan, learned standing counsel appearing for the respondents has obtained instructions in the matter. Both learned counsel request that the writ petition may be disposed of finally even at the stage of admission.

3. I may refer to my order dated 07.02.2019 passed in W.P.No.3645 of 2019 wherein I have considered a case similar to the present one. The property in question is situated at 6/3 (36/3), Nattu Muthu Kumarappan Street, Mylapore, Chennai- 600 004. Order dated 04.02.2019 passed in W.P.No.3248 of 2019 (N.Krishnan V. The Secretary, Government of Tamil Nadu) and has passed orders as follows reads thus:-

> '3. The main contentions advanced by the learned counsel for the petitioner are that no show cause notice has been issued by the respondents prior to the issuance of the impugned notice and that no break up of the amount has been set out in the notice itself. The revision thus is contrary to G.O.(Ms) 73, Municipal Administration and Water Supply (MA.IV) Department dated 19.07.2018, which provides for a revision upto only 100% of the existing tax.
>
> 4. Per contra, learned Standing Counsel appearing for the Corporation states that the impugned document is only a provisional notice and a final demand would be raised after consideration of the objections of the assessee/petitioner.
>
> 5. The notice, on the face of it, states 'Within 15 days of receipt of this Notice, appeal if any, may be preferred to the concerned Regional Deputy Commissioner, Greater Chennai Corporation as per the delegation provided, or else it will be assumed that the Half Yearly Tax is accepted.'
>
> 6. A Division Bench of this Court in the case of Sanjai Gupta V. The Commissioner, Corporation of Chennai (2009(2)CTC465) has

considered a similar case holding that an occasion to file an appeal would arise only after a final order has been passed. The decision of the Bench reads as follows:

> '1. ......
>
> 2. This Appeal arises out of an interlocutory order passed by the learned Single Judge in W.P.No.4237 of 2009. By consent of both the counsel, the Writ Petition itself is taken in the causelist of the Division Bench. Both the counsel are heard.
>
> `3. The submission of Mr.K.V.Babu, learned counsel for the appellant/petitioner is that the Municipal Corporation sent a notice dated 25.4.2007 to the appellant asking him to show cause as to why the property tax should not be revised in the manner indicated in that notice. The notice was supposed to be replied within 15 days. The appellant received that notice on 16.6.2007 and sent a reply to the same on 23.6.2007 pointing out amongst others that there was no alteration or addition in any manner in the building in which the appellant was running a lodging house. That apart, the grievance in the Writ Petition is that without deciding the objections, a subsequent order/notice dated 28.1.2009 has been issued calling upon the appellant/petitioner to pay the balance amount, as per the calculation of the respondents, to the tune of Rs.20,69,393/-. Being aggrieved by this order, the Writ Petition has been filed, wherein the learned Single Judge has directed the deposit of Rs.11 lakhs for granting a stay.
>
> 4. Mr.K.V.Babu, learned counsel submits that the demand notice, dated 28.1.2009 is not based on any order passed by the Commissioner and, therefore, the order of the learned Single Judge, asking the appellant to deposit an amount of Rs.11 lakhs for granting a stay, is unjustified.
>
> 5. Mr.L.N.Praghasam, learned ocunsel appearing for the Municipal

Corporation submits that the appellant has a remedy to go to the Taxation Appellate Tribunal under Part V of the Taxation Rules read with Section 138 of the Chennai City Municipal Corporation Act, 1919.

6. In our opinion, this submission is misconceived. The occasion to file an Appeal will arise only after an order is passed and based thereon a demand is made. In the present case, the appellant having filed the objections, they were expected to be decided. Without deciding the same, this levy has been calculated and the balance amount of Rs.20,69,393/- has been demanded.

7. In the circumstances, we set aside the order passed by the learned Single Judge. The demand notice dated 28.1.2009, which is impugned in the Writ Petition is also set aside. The Writ Appeal as well as Writ Petition are allowed. Consequently, the connected M.Ps. are closed. There shall be no order as to costs.'

4. The observations and conclusions of this Court in the aforesaid matter are equally applicable in the present case as well and may be read as part and parcel of the present order. The petitioners in the present case put forth a variety of objections to the enhancement; that enhancement is in excess of the percentage mentioned in G.O.(Ms)No.73 dated 19.07.2018, that no computation sheet has been provided which will give the break up of the impugned demand and others. In any event, I do not propose to delve into the same since the petitioners have rightly filed their objections to the impugned notice on various dates and the same are pending consideration.

5. The petitioners are ready to pay the entire disputed tax amount of Rs.3,255/- and shall do so within a period of one (1) week from today.

6. In view of the aforesaid submission, the petitioners in the present case shall appear before the Regional Deputy Commissioner (Central) thought not arrayed as party, at the first instance on 24.04.2019 at 10.30 a.m. for a personal hearing along with a copy of the objection dated 30.10.2018 as well as earlier representations and proof of remittance of the entire demand. No further notice will be issued in this regard. The Officer shall furnish the petitioners with a working / computation sheet setting out the break-up of the demand raised under the impugned notice. Upon satisfaction that the demand has been remitted, the Officer shall, after affording full opportunity to the petitioners, pass orders of

assessment de novo, within a period of six (6) weeks from the date of conclusion of the personal hearing. It is made clear that the amount remitted as above shall be received without prejudice to the objections of the petitioners and subject to a final determination of the demand in assessment.

7. These Writ Petition is disposed of in the above terms. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rkp

To

1.The Commissioner,
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No.1, Lake View Area 4th Cross Street,
Nungambakkam, Chennai 600 020.

+1cc to Mr.V.Rajasekar, Advocate, S.R.No.33819
+1cc to Mr.T.C.Gopalakrishnan, Advocate, S.R.No.33910

WP. No.5984 of 2019
and
WMP. No.6809 of 2019

PS(CO)

RRS(16/04/2019)