IN THE HIGH Court OF JUDICATURE AT MADRAS

DATED: 06.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.1912 of 2012
and
M.P.No.1 of 2012

P.J.Alexander .. Petitioner

Vs.

1. The Commissioner
   Tambaram Municipality
   Tambaram, Chennai- 600 045.

2. The District Collector,
   Kancheepuram District,
   Kancheepuram. .. Respondents

PRAYER :

Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent comprised in his proceedings bearing No.35522 dated 09.01.2012 pertaining to the buildings situate at Ward No.36, 10-B Kakkan Street, West Tambaram, Chennai- 600 045 and quash the same and consequently issue a Mandamus forbearing the respondents their men, officers, servants or any other person(s) claiming or acting through them from in any manner imposing, demanding or collecting any property tax or taking any coercive steps whatsoever with respect to the propertysituate at No.10-B Kakkan Street, West Tambaram,chennai - 600 045 other than by due process of law.

For Petitioner : Mr.T.T.Ravichandran

For R1 : Mr.P.Srinivasan
Standing Counsel

For R2 : Mr.Zakir Hussain
Government Advocate

ORDER

When a demand notice was issued on 30.08.2007 demanding property tax from the petitioner for the property situated at No.10-B, Kakkan street, West Tambaram, Chennai-600-045, the petitioner had filed a writ petition in W.P.No.34567 of 2007 challenging the demand, on the ground that earlier he had sought for exemption from payment of property tax and when that application was kept pending by the concerned authorities, this Court had already directed the concerned authorities to consider their application by way of an order passed in W.P.No.26359 of 2004. Passing orders in the Writ Petition in W.P.No.34567 of 2007 on 07.11.2007, this Court had observed that the impugned order of demand before issuance of an assessment order was improper and thereby directed the authorities to issue a fresh assessment order before making the demand. Inspite of such orders, the present impugned demand of property tax has been made for the assessment years 2000-2001-I (first half) to 2009-2010-II(second half).

2.A perusal of the demand notice does not reveal that an assessment order was passed prior to the impugned demand. Such a notice is normally violative of the procedure contemplated under law but also is in disobedience of the orders of this Court in W.P.No.34567 of 2007 dated 07.11.2007. Wherein, the respondents were specifically directed to pass assessment orders prior to the demand. In view of this, the demand notice cannot be sustained.

3.In the light of the above observations, the demand notice dated 20.01.2012 on the file of the first respondent is quashed. Nevertheless, if the concerned authority is of the view that the petitioner should be subjected to payment of property tax for the said property, such a demand can be made after passing assessment orders and by extending due opportunity to the petitioner during the course of the assessment proceedings to file their objections to the proposed levy.

4.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

pnn

To

1. The District Collector,
   Kancheepuram District,
   Kancheepuram.

2. The Commissioner,
   Tambaram Municipality,
   Tambaram, Chennai-45

+1cc to Mr.P.Srinivasan, Advocate, S.R.No.67439
+1cc to the Government Pleader, S.R.No.68080

W.P.No.1912 of 2012
and
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SSD(CO)
CS/30/09/2019