

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2019

CORAM

THE HONOURABLE Mr. JUSTICE M.DHANDAPANI

W.P.No.7760 of 2008

M/s.Mavukkarai Hotels Pvt Ltd.,
rep. by its Managing Director,
J.Ravi, 62-64 Kalingarayan Street,
Ram Nagar, Coimbatore-9.

...Petitioner

Vs

The Commissioner,
Coimbatore City Municipal Corporation
Corporation Buildings, Big Bazaar Street,
Coimbatore.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 26.10.2007 in No.6848/2007/A6(S) passed by the respondent corporation and quash the same.

For Petitioner

: Mr.J.Pothiraj

For Respondent

: Mr.R.Shivakumar

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ORDER

This Writ Petition has been filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 26.10.2007 in No.6848/2007/A6(S) passed by the respondent corporation and to quash the same.

2.The petitioner is the owner of the property. In an earlier occasion for the purpose of striking of the entry made on 26.06.2007 for enhancement in property tax effected by the staff of the corporation in the property tax book without there being any special demand notice or general revision of the property tax to the petitioner's hotel, he made a representation on 29.06.2007. Thereafter, the petitioner has filed a writ petition in W.P.No.27942 of 2007 before this Court seeking to consider his representation dated 29.06.2007. This Court by order dated 03.09.2007 directed the respondent therein to dispose of the petitioner's representation dated 29.06.2007 within a period of six weeks from the date of that order.

3.As per the direction of this Court, the respondent corporation by letter dated 26.10.2007 issued a communication stating that they have enhanced the property tax from 01.10.1998 as per the procedure contemplated under Section 169(5) of the Coimbatore Municipality Corporation Act, 1981 and it was further stated the special notices on property tax demand card for revision of tax were delivered to the petitioner by the collection staff of the respondent corporation. Though the petitioner has not received any form or special notices and property tax demand card for revision of tax, however the petitioner is paying

Rs.1,52,028/- regularly property tax to the Government from 1998 onwards. However, without following the Rules, in the year 2007, the respondent corporation assessed the property tax at Rs.1,97,636/- retrospectively without any notice. Thereby the petitioner filed the present writ petition challenging the demand made by the Assistant Commissioner (South Zone), Coimbatore city Municipal Corporation.

4.The respondent corporation filed the counter stating that based on the grievance of the petitioner repeated conciliation meetings were held and during the last week of November 2010, the petitioner has agreed to the demand made by the respondent corporation vide the impugned order and the petitioner has come forward to pay the property tax at the rate of Rs.1,97,639/-. Accordingly he had remitted an amount of Rs.5 lakhs on 24.11.2010 and he has also further remitted a further amount of Rs.3,37,000 on 08.01.2011 and further the arrears of the petitioner as on date Rs.6,29,477/- for the period of 2009-2010 1st half and 2010-2011 1st and 2nd halves, which he undertook to pay within the financial year 2010-2011. In view of the above nothing survives for further adjudication.

5.Further, the learned counsel for the respondent submitted that as against the original order passed by the Assistant Commissioner,

there is an appeal remedy available to the petitioner under Rule 20 of the Taxation Rules and further appeal remedy is available under Rule 23 of the Taxation Rules and without exhausting the appeal remedy available and approaching this Court directly is un-sustainable one.

6. On perusal of the counter statement reveals that after filing of the writ petition, the petitioner himself has paid major portion of the demand amount. Hence, nothing require for further adjudication in this matter.

7. This Writ Petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition, if any, is also closed.

04.06.2019

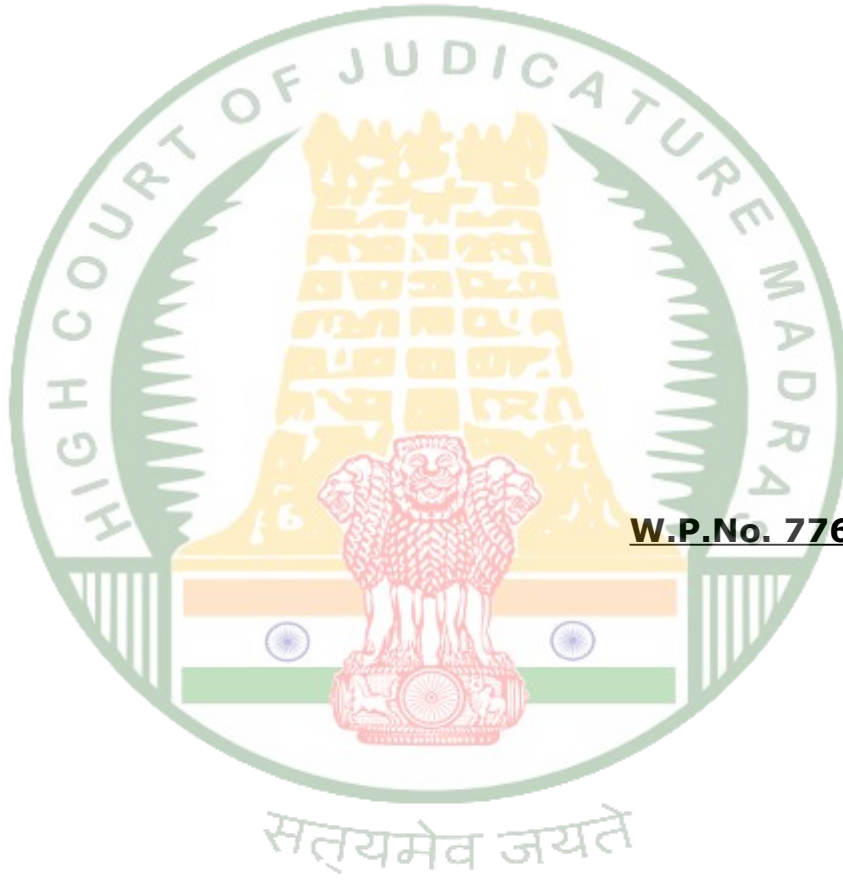
Index : Yes
Internet: Yes
Speaking Order
rst/pri

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To

The Commissioner,
Coimbatore City Municipal Corporation
Corporation Buildings, Big Bazaar Street,
Coimbatore.

M.DHANDAPANI,J.
rst/pri



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