IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2019

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THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.Nos.4453, 7391, 7394 and 7396 of 2019
and WMP.Nos.5019, 5020, 8065, 8066,
8068, 8069, 8071 and 8073 of 2019

South India Tanners & Dealers Association,
Rep. By its Secretary Mr.C.M.Zafarullah,
No.18, Mahatma Gandhi Road,
Ranipet, Vellore - 632 401. ... Petitioner in all W.Ps.

-Vs-

1. The Commissioner of Municipal Administration,
Office of the Commissioner,
6th Floor, Ezhilagam,
Chepauk, Chennai - 600 009.

2. The Commissioner,
Ranipet, Municipality,
Ranipet, Vellore - 632 401.

...Respondents in all W.Ps.

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the entire records relating to the impugned demand notice dated 20.12.2018 in Tax Assessment Nos. 031/023/000105, 031/023/000104, 031/023/000106 and 031/023/000107 respectively of the 2nd respondent and quash the same.

For Petitioner : Mr.R. Gopinath
(In all W.Ps) for M/s.McGan LAW FIRM

For Respondents : Mr.R.Prathap Singh for R1
(In all W.Ps) Mr.P.S.Shanmugasundaram for R2

COMMON ORDER

This common order will govern the aforesaid four writ petitions. In other words, this common order will dispose of these four writ petitions on hand.

2. Writ petitioner is the same in all the four writ

petitions and so are the respondents. With regard to first respondent, Mr.Prathap Singh, learned Government Advocate is before this Court. On behalf of the second respondent, who is Commissioner of Ranipet Municipality, Mr.P.S.Shanmugasundaram, learned counsel is before this Court.

3. With consent of all the aforesaid three learned counsel, main writ petitions are taken up, heard out and are being disposed of.

4. Though several grounds have been agitated in the affidavits filed in support of each of the writ petitions, Mr.R.Gopinath, learned counsel of M/s. MCGan Law Firm, for writ petitioner abridged/restricted the submissions and submitted that the sole and pivotal ground on which the impugned demand notices issued by the second respondent are assailed is that the enhanced property tax for four different properties owned by the writ petitioner have been demanded without passing final assessment orders, though the writ petitioner has sent objections to the generic/general paper advertisement regarding proposed enhancement of property tax.

5. It is submitted by learned counsel on both sides that this sole ground is the common point on which all these four writ petitions are predicated.

6. Learned Government Advocate submitted that G.O.(Ms) Nos. 73 and 76, Municipal Administration and Water Supply (MA.IV) Department, dated 19.07.2018 and 26.07.2018 respectively have been passed with regard to general revision of property tax. To be noted, it is submitted that G.O(Ms)No.76 is in the nature of addendum/amendment to G.O(Ms)No.73.

7. It was submitted that a paper publication was made on 11.09.2018 with regard to proposed enhancement. The publication made in a Tamil Daily, i.e., 'Malai Malar' dated 11.09.2018, has been placed before this Court and the same is as follows:

இராணிப்பேட்டை நகராட்சி

சொத்துவரி சீராய்வு - 2018

அறிவிக்கை

மண்டலம்	சதுர அடிக்கான அடிப்படை மதிப்பு	
	தற்போதைய மதிப்பு	உயர்த்தப்பட்டுள்ள மதிப்பு
A	2.10	3.15
B	2.05	3.05
C	2.00	2.50

இராணிப்பேட்டை நகராட்சி

8. Learned counsel for second respondent submitted that the writ petitioner has sent their objections with regard to each of the four properties vide objections dated 20.09.2018, in response to the aforesaid paper publication and therefore, the enhancement was made. Though such a submission has been made, there is nothing to show that there was provisional assessment and there is nothing before this Court to show that final assessment orders were passed. More importantly, there is nothing before this Court to demonstrate that assessment was made after giving an opportunity to the writ petitioner. The aforesaid factual position remains undisputed.

9. Before this Court proceeds further with this matter, it is to be noted that the question as to whether the proposed enhancement of property tax can be communicated to the property owners/assessees by way of a generic/general paper publication or should notices be served individually giving details of proposed enhancement with specificity is left open. The question as to whether such a generic/general paper publication in the newspaper will suffice or as to whether provisional assessment has to be served on each of the individual assesses giving proposed enhancement details with specificity and clarity is left open as in the instant case, it is not disputed by the writ petitioner that the writ petitioner responded to the generic paper advertisement by sending objections.

10. With the aforesaid prefatory/clarifactory note, this Court now proceeds to deal with the central/core issue in these

writ petitions.

11. Though the writ petitioner/property owner i.e., assessee has filed their objections, the objections have not been considered and no assessment has been made. Therefore, the demand of enhanced property tax made by the second respondent vide the impugned notices are liable to be set aside inter alia on the ground of violation of 'Natural Justice Principles' (' NJP' for brevity).

12. It is also to be noted that a Hon'ble Single Judge of this Court vide order dated 04.02.2019 made in W.P.No.3231 of 2019 (drawing inspiration from a Division Bench of this Court in Sanjai Gupta Vs. The Commissioner, Corporation of Chennai reported in 2009 (2) CTC 465) held that in such property tax matters, it is imperative that the local authority concerned, issued a provisional assessment order to the assessee, give an opportunity to the assessee to be heard qua objections and thereafter, pass a final assessment order before making a demand.

13. Though obvious, it is made clear that when final assessment order is made, appellate remedy if any available to the assessees under the statute can always be availed of by the assessees subject to the Rules in that regard.

14. In the light of the aforesaid narrative, this Court passes the following order:

a) Four impugned demand notices, all dated 20.12.2018 bearing Reference Nos. 031/023/000105, 031/023/000104, 031/023/000106 and 031/023/000107 are set aside on the ground of NJP i.e., not making provisional assessment order, giving opportunity to writ petitioner assessee for making objections and thereafter passing final assessment orders. In other words, demand notices are set aside without expressing any opinion on the merits of the matter qua enhancement.

b) In the peculiar facts of this case, as the writ petitioner has responded to the generic/general paper advertisement, second respondent shall make assessment qua each of the four properties of the writ petitioner, after considering the objections and after giving an opportunity of personal hearing to the writ petitioner i.e., writ petitioner's authorized representative or any duly authorized person on behalf of the writ petitioner.

c) The final assessment orders that shall be passed after affording an opportunity of personal hearing i.e., after considering the objections of the writ petitioner shall be duly served on the writ petitioner in a manner known to law under due acknowledgement within seven working days from the date of final assessment orders.

d) Though obvious, it is made clear that on such final assessment orders being served on the writ petitioner, it is open to the writ petitioner to avail any statutory remedy that may be available to the writ petitioner against the enhancement, if the objections are not sustained either wholly or in part.

e) The aforesaid exercise of giving personal hearing to the writ petitioner, considering the objections already submitted by the writ petitioner and passing final assessment orders shall be completed within a period of three months from the date of receipt of instant common order.

These writ petitions are disposed of with the above observations. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

vsm/mp

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Municipal Administration,
   Office of the Commissioner,
   6th Floor, Ezhilagam,
   Chepauk, Chennai – 600 009.

2. The Commissioner,
   Ranipet, Municipality,
   Ranipet, Vellore – 632 401.

+1cc to Mr.P.S.Sivashanmugasundaram, Advocate, SR.No.48536
+1cc to M/s.McGAN Law Firm, Advocates, SR.No.47817
+1cc to the Govt.Pleader, Vide Sr.No.48102

W.P.Nos.4453, 7391, 7394 and 7396 of 2019 and
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Kak(02/08/2019)