IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.06.2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.8026 of 2019
and W.M.P.No.8627 of 2019

M/s.Amma Kamma Charities
Rep. By N.M.Noorul Ammen
Son of Late Mohammed Ibrahim
No.41/21, N.S.C.Bose Road,
Edapalayam
Chennai 600 079.

... Petitioner

vs.

1.The Commissioner
Corporation of Chennai
Chennai - 600 003.

2.The Assistant Revenue Officer
Revenue Department, Zone - V
Chennai - 600 003.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to call for the records of the second respondent viz., Notice No.1; Property Tax General Revision 2018-2019 dated 21.01.2019 vide Notice No.S/1/18-19/1242786 and quash the same consequently direct the second respondent to dispose of the petitioner's representation dated 06.03.2019 in accordance with law.

For Petitioner : Mr.M.Ganesan

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

O R D E R

Mr.M.Ganesan, learned counsel on record for the writ petitioner and MrT.C.Gopalakrishnan, learned Standing Counsel for Chennai Corporation on behalf of both the respondents are before this Court.

2. With consent of both the learned counsel, main writ petition itself is taken up, heard out and disposed of.

3. The entire matter turns on a very narrow compass.

4. Subject matter of this writ petition is enhancement of half yearly property tax for the writ petitioner's property at Door No.41/21, N.S.C.Bose Road, Chennai - 600 079 (hereinafter 'said property' for brevity).

5. There is no dispute or disagreement that the respondent Chennai Corporation has sent a provisional assessment notice dated 21.01.2019 proposing enhancement of half yearly property tax for the said property from Rs.19,450/- to Rs.1,57,650/ with effect from first half year of 2018-19 i.e., with effect from 01.04.2018.

6. This provisional assessment notice has been called in question in the instant writ petition and therefore, the same shall be referred to as 'impugned notice'.

7. Impugned notice has been issued pursuant to general revision. There is no dispute or disagreement in this regard.

8. In response to the impugned notice (provisional assessment), writ petitioner has sent objections dated 06.03.2019.

9. Learned counsel for writ petitioner points out that it is necessary for the jurisdictional Regional Deputy Commissioner of Chennai Corporation to consider his objections dated 06.03.2019 as well as the seven grounds raised in this writ petition viz., grounds (a) to (g), which read as follows:

> 'a) The impugned order viz., property tax general revision 2018-2019 dated 21.01.2019, under S/1/18-19/124786 issued by the second respondent is arbitrary, non-application of mind and excessive of jurisdiction.
>
> b) The Second respondent had failed to adhere to the guidelines prevailing for enhancement of property tax. Such non following of the guidelines reflects the non-application of mind on the part of the second respondent.
>
> c) The second respondent herein had failed to apply the government order issued by the Government of Tamil Nadu that the revision in case of property tax towards residential buildings shall not exceed 50% and in case of non-residential buildings shall not exceed 100%. However, in the present case on

hand the enhancement in the nature of revision from Rs.19,450/- to Rs.157650/- is more 800 times is in-admissible under the guidelines.

d) The second respondent had failed to consider the representation of the petitioner and the orders of the Hon'ble High Court at Madras dated 18.08.2016 passed in W.P.No.8194 of 2012, wherein it was specifically mentioned that before any revision of property tax a pre-assessment shall be made and after that objections of the party has to be taken before passing the revision in the property tax. Failure to follow such procedure is a complete breach of the orders of the guidelines enumerated under the orders of the High Court.

e) The issuance of the demand notice prior to the property tax general revision 2018-19 creates strong suspicion that the revision ought to have been made subsequent to the demand notice dated 02.02.2019. In fact, the Notice No.1 property tax general revision 2018-2019 is dated 21.01.2019, it was served on the petitioner subsequent to the service of the arrears demand letter 02.02.2019. There is no whisper as to why there was a delay in serving the impugned revision notice on the petitioner.

f) The extent referred in the extent of land coloum as 7700 sq.ft is factually incorrect and contrary to the land available in respect of door No.41(21) N.S.C.Bose Road, Chennai - 600 079.

g) In any event the impugned order in the nature of Notice No.1: property Tax General Revision 2018-2019 dated 21.01.2019 under General Revision Notice No.S/1/18-19/1242786 is liable to be set aside.'

10. A perusal of the impugned notice reveals that it talks about an appeal to jurisdictional Regional Deputy Commissioner. However, this Court vide order dated 04.02.2019 in W.P.No.3231 of 2019 relying on a Judgement made by a Hon'ble Division Bench of this Court in Sanjai Gupta Vs. The Commissioner, Corporation of Chennai reported in 2009 (2) CTC 465 has held that it cannot be an appeal and it has to necessarily be objections, as provisional assessment order has to necessarily be fructify into an assessment order before any demand is made.

11.Therefore, the following order is passed:

a) Impugned notice i.e., provisional assessment order dated 21.01.2019 is not quashed.

b) In response to impugned notice (provisional assessment order) writ petitioner has sent objections dated 06.03.2019 and has raised the aforesaid seven grounds. Jurisdictional Regional Deputy Commissioner, Chennai Corporation shall consider the objections raised by the writ petitioner in the representation dated 06.03.2019 as well as aforementioned seven grounds and pass a final assessment order after considering all objections in a manner known to law within eight weeks from the date of receipt of a copy of this order.

c) Until the Regional Deputy Commissioner passes final assessment order in the aforesaid manner, proposed enhancement property tax shall be kept in abeyance and there shall be no coercive action subject to the condition that writ petitioner continues to pay half yearly property tax at the existing rate of Rs.19,450/- for said property without delay or default qua time frame in this regard prescribed by rules under Chennai City Municipal Corporation Act, 1919.

12. This writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

To

1.The Commissioner
Corporation of Chennai
Chennai - 600 003.

2.The Assistant Revenue Officer
Revenue Department, Zone - V
Chennai - 600 003.

3.The Regional Deputy Commissioner,
Chennai Corporation, Chennai.

+1cc to Mr.T.C.Gopalakrishnan, Advoate Sr.48522
+1cc to Mr.M.Ganesan, Advocate Sr.48538

W.P.No.8026 of 2019

kk[co]
srg 12/07/2019