IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

WP. Nos.8551, 8560, 8576, 8582 & 8589 of 2019
and
WMP. Nos.9063, 9067 & 9068, 9078 to 9080 , 9092, 9094, 9096, 9099, 9101, 9103, 9105, 9108 & 9109 of 2019

Anil Kumar .. Petitioner in WP. No.8551 of 2019

S.Rajkumar Mehta .. Petitioner in WP. No.8560 of 2019

M/s.Enzyme India Pvt. Limited,
Rep. by its Director Anil Kumar,
No.(7/12), Muthamil Nagar,
VII Block, 186th Street,
Zone No.04, Ward No.035,
Kodungaiyur, Chennai 600 118 .. Petitioner in WP. No.8576 of 2019

Naresh Kumar .. Petitioner in WP. No.8582 of 2019

Naresh S. Mehta .. Petitioner in WP. No.8589 of 2019

vs.

1. The Principal Secretary to Government,
   Municipal Administration and
   Water Supply, (MA.IV) Department,
   Fort St. George, Chennai 600 009.

2. The Commissioner,
   Greater Chennai Corporation,
   Rippon Buildings, Chennai 600 003.

3. The Assistant Commissioner,
   Greater Chennai Corporation,
   Zone V, No.45, M.C.Road,
   Royapuram, Chennai 600 013.

4. The Revenue Officer,
   Greater Chennai Corporation,
   Rippon Buildings,
   Chennai 600 003.

5. The Zonal Assistant Revenue Officer,
   Zone V, Revenue Department,
   Greater Chennai Corporation,
   No.62, Basin Bridge Road,
   Chennai 600 079.

6. The Regional Deputy Commissioner,
   North Zone, Revenue Department,
   Greater Chennai Corporation,
   No.105, Basin Bridge Road,
   Chennai 600 079. .. Respondents in W.P.No.8551/2019

1 The Principal Secretary to Government Municipal Administration and Water Supply (MA-IV) Department Fort St. Geroge Chennai-09

2 The Commissioner Greater Chennai Corporation Ripon Buildings Chennai-3

3 The Assistant Commissioner Greater Chennai Corporation Zone IV No.266 Tondiarpet High road Old Washermanpet Chennai-21

4 The Revenue Officer Greater Chennai Corporation Ripon Buildings Chennai-03

5 The Zonal Assistant Revenue Officer Zone IV Revenue Department Greater Chennai Corporation No.266 tondiarpet High Road Old Washerment Pet Chennai-21

6 The Regional Deputy Commissioner North Zone Revenue Department Greater Chennai Corporation No.105 Basin Bridge road Chennai-79 ..Respondents in W.P.No.8560/2019

1 The Principal Secretary to Government Municipal Administration and Water Supply (MA-IV) Department Fort St. Geroge Chennai-09

2 The Commissioner
Greater Chennai Corporation Ripon Buildings
Chennai-3

3 The Assistant Commissioner
Greater Chennai Corporation Zone IV No.266
Tondiarpet High Road Old Washermanpet
Chennai-21

4 The Revenue Officer
Greater Chennai Corporation Ripon Buildings
Chennai-03

5 The Zonal Assistant Revenue
Officer Zone IV Revenue Department
Greater Chennai Corporation No.266
Tondiarpet High Road Old Washermanpet
Chennai-21

6 The Regional Deputy Commissioner
North Zone Revenue Department
Greater Chennai Corporation No.105 Basin
Bridge road Chennai-79 ..Respondents in W.P.No.8576/2019

1 The Principal Secretary to
Government Municipal Administration and
Water Supply (MA-IV) Department Fort St.
Geroge Chennai-09

2 The Commissioner
Greater Chennai Corporation Ripon Buildings
Chennai-3

3 The Assistant Commissioner
Greater Chennai Corporation Zone V No.45
M.C.Road Royapuram Chennai-13

4 The Revenue Officer
Greater Chennai Corporation Ripon Buildings
Chennai-03

5 The Zonal Assistant Revenue
Officer Zone V Revenue Department Greater
Chennai Corporation No.62 Basin Bridge
Road Chennai-79

6 The Regional Deputy Commissioner
North Zone Revenue Department
Greater Chennai Corporation No.105 Basin
Bridge road Chennai-79 ...Respondents in W.P.No.8582/2019

1 The Principal Secretary to Government Municipal Administration and Water Supply (MA-IV) Department Fort St. Geroge Chennai-09

2 The Commissioner Greater Chennai Corporation Ripon Buildings Chennai-3

3 The Assistant Commissioner Greater Chennai Corporation Zone V No.45 M.C.Road Royapuram Chennai-13

4 The Revenue Officer Greater Chennai Corporation Ripon Buildings Chennai-03

5 The Zonal Assistant Revenue Officer Zone V Revenue Department Greater Chennai Corporation No.62 Basin Bridge Road Chennai-79

6 The Regional Deputy Commissioner North Zone Revenue Department Greater Chennai Corporation No.105 Basin Bridge road Chennai-79 ..Respondents in W.P.No.8589/2019.

Prayer in WP. No.8551 of 2019:- 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 2nd to 6th respondents herein with regard to the revision of tax at 200% in Bill No.05-058-02289-000 and Old Bill No.07-103-0581-001 dated 07.03.2019 and quash the same, consequently direct the 2nd to 6th respondents to fix the property tax in accordance with G.O. (Ms) No.73, dated 19.07.2018.

Prayer in WP. No.8560 of 2019:- 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 2nd to 6th respondents herein with regard to the revision of tax at 400% in Bill No.04-035-10874-000 and Old Bill No.01-001-1807-000 dated 07.03.2019 and quash the same, consequently direct the 2nd to 6th respondents to fix the property tax in accordance with G.O. (Ms) No.73, dated 19.07.2018.

Prayer in WP. No.8576 of 2019:- 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 2nd to 6th respondents herein with regard to the revision of tax at 250% in Bill No.04-035-08856-000 and Old Bill

No.01-001-1061-048 dated 07.03.2019 and quash the same, consequently direct the 2nd to 6th respondents to fix the property tax in accordance with G.O. (Ms) No.73, dated 19.07.2018.

Prayer in WP. No.8582 of 2019:- 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 2nd to 6th respondents herein with regard to the revision of tax at 200% in Bill No.05-058-02384-000 and Old Bill No.07-103-0581-002 dated 07.03.2019 and quash the same, consequently direct the 2nd to 6th respondents to fix the property tax in accordance with G.O. (Ms) No.73, dated 19.07.2018.
Prayer in WP. No.8589 of 2019:- 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 2nd to 6th respondents herein with regard to the revision of tax at 200% in Bill No.05-058-02199-000 and Old Bill No.07-103-0581-002 dated 07.03.2019 and quash the same, consequently direct the 2nd to 6th respondents to fix the property tax in accordance with G.O. (Ms) No.73, dated 19.07.2018.

For Petitioner	:	Mr.S.Sathiaseelan in all WPs.
For Respondents	:	Mr. A.Zakir Hussain Government Advocate for R1 in all WPs Mr.T.C.Gopalakrishnan, Standing Counsel for R2 to R6. in all WPs.

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O R D E R

Mr.S.Sathiaseelan, learned counsel for the petitioners has raised a challenge on behalf of the petitioners to the revision of taxes at 200% in Bill No.05-058-02289-000 and Old Bill No.07-103-0581-001, 400% in Bill No.04-035-10874-000 and Old Bill No.01-001-1807-000, 250% in Bill No.04-035-08856-000 and Old Bill No.01-001-1061-048, 200% in Bill No.05-058-02384-000 and Old Bill No.07-103-0581-002 and 200% in Bill No.05-058-02199-000 and Old Bill No.07-103-0581-002 all dated 07.03.2019. The grievance of the petitioners is that the objections filed by the petitioners 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 properties in question are situated at 50/1 (111/1), Jothi Venkatachalam Salai (Atkinson Road), Vepery, Chennai - 600 007, 10(44), Tondiarpet High Road, Moolakadai, Kodungaiyur, Chennai - 600 118, 7(7/12), Muthamil Nagar Vii Block, 186th Street, Muthamil Nagar, Kodungaiyur, Chennai - 600 118, 50/2(111/2), Jothi Venkatachalam Salai (Atkinson Road), Vepery, Chennai - 600 007 and 50/4 (111/4), Jothi Venkatachalam Salai (Atkinson Road), Vepery, Chennai - 600 007. 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.
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> 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.
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> 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.'
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> 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 petitioner in the present case has 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. In any event, the petitioners have rightly filed their objections to the impugned notice proposing revision.

5. In view of the aforesaid submission, the petitioners in the present case shall appear before the sixth respondent 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 01.02.2019 and proof of remittance of: (i) admitted tax and (ii) tax of 100% of existing tax as per G.O.Ms.No.76, Municipal Administration and Water Supply (MA.IV) Department, dated 26.07.2018. 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 amounts as set out in (i) and (ii) aforesaid have been remitted, the Officer shall, after affording full opportunity to the petitioners and pass orders of assessment de novo, within a period of three (3) weeks from the date of conclusion of the personal hearing.

6. The demand raised in the impugned notice, in excess of the remittances stipulated in paragraph (5) above, shall be kept in abeyance till such time orders are passed by the Assessing Authority. It is also made clear that the amounts remitted under (ii) in paragraph (5) 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 Petitions are disposed of in the above terms. No costs. Consequently, the connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

rkp

To

1. The Principal Secretary to Government,
Municipal Administration and
Water Supply, (MA.IV) Department,
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Greater Chennai Corporation No.266
tondiarpet High Road Old Washerment Pet
Chennai-21

+5 Ccs to Mr.S.Sathiaseelan, Advocate sr 30199.
+1 CC to Govt. Pleader sr 31099, 31100, 31101, 31098.

WP. Nos.8551, 8560, 8576, 8582 & 8589 of 2019

GMR(CO)
SP(04/04/2019)