IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-06-2019

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THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.10036 of 2019
And
W.M.P.Nos.10613 and 10615 of 2019

T.Jeyapandiyan .. Petitioner

..Vs..

1.The Revenue Commissioner, Zone-11,
Ripon Building,
Chennai Corporation,
Chennai-600 003.

2.The Assistant Commissioner,
Zone-11, Valsaravakkam Corporation of Chennai,
Chennai-600 005.

3.The Assistant Revenue Officer, Zone-11,
Ripon Building,
Chennai Corporation,
Chennai-600 003. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice issued by the first respondent vide demand notice vide Ma.Aa.11/Va.Du.Na.Ka.No.R2/ 1381/2019 dated 25.2.2019 revising the property tax from Rs.1,87,670.00 to Rs.3,23,035.00 per half year from 2018-2019 and quash the same subsequently direct the second and third respondents to restructure the property tax amount as according to the provisions of the Chennai City Municipal Corporation Act, 1919.

For Petitioner : Mr.E.Suganthan for
M/s.Nathan and Associates.

For Respondents : Mr.T.C.Gopalakrishnan,
Standing Counsel for Chennai
Corporation.

O R D E R

Mr.E.Suganthan, learned counsel of M/s.Nathan and Associates on behalf of writ petitioner and Mr.T.C.Gopalakrishnan, learned Standing Counsel on behalf of respondents 1 to 3, are before this Court.

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

3. Subject matter of writ petition is enhancement of half yearly property tax for a property owned by writ petitioner.

4. It is the case of the writ petitioner that half yearly property tax has been enhanced from Rs.1,87,670/- to Rs.3,23,035/-, without affording an opportunity.

5. To be noted, it is not merely a case of not affording an opportunity, but it is the specific case of writ petitioner that no provisional assessment has been made, no objections have been called for from writ petitioner and final assessment has not been made after adhering to provisional assessment and objections procedure.

6. Be that as it may, this is the second round of litigation.

7. The first round of litigation is WP No.3231 of 2019 filed by writ petitioner, wherein a demand made by Chennai Corporation, demanding enhanced property tax, was assailed.

8. Aforesaid writ petition was disposed of on 4.2.2019 by a Hon'ble Single Judge of this Court and the most relevant and operative part of the order in that writ petition is paragraph-6, which reads as under:

> '6. The petitioner in the present case has rightly filed his objections to the notice dated 29.9.2018, on 8.12.2018 and will appear before the Officer at the first instance on 18.2.2019 at 10.30 a.m., for a personal hearing without any further notice in this regard. The Officer shall pass an order after affording due opportunity of hearing to the petitioner within a period of three (3) weeks from the date of conclusion of the hearing before him.'

9. Pursuant to aforesaid order, writ petitioner went before the authority concerned, namely, Regional Deputy Commissioner (South), Corporation of Greater Chennai, Zone-13, Dr.Muthulaxmi Reddy Road, Adyar, Chennai (hereinafter referred to as 'said authority' for brevity) on 18.2.2019.

10. On 18.2.2019, it is submitted that measurements were taken in the presence of writ petitioner and property of writ petitioner was assessed.

11. Thereafter, the authority thought it fit to hold a personal hearing, obviously to give writ petitioner an opportunity to raise objections. For this purpose, said authority has sent a communication dated 25.2.2019, bearing Reference No.k/m/11/ t/J/e/f/vz;/Mu;2/1381/2019. Perusal of this communication shows that personal hearing has been fixed on the very next day i.e., on 26.2.2019 at 3.00 p.m.

12. It is the specific and pointed case of the writ petitioner that this communication from said authority was served on the writ petitioner only on 26.2.2019 at 4.00 p.m., i.e., after the time fixed for personal hearing. It is also the specific submission of counsel for writ petitioner that the said communication was sent to writ petitioner by ordinary post.

13. This Court has repeatedly held that with regard to enhancement of property tax, it is necessary to make provisional assessment, call for objections from the Assessee and thereafter make a final assessment before making a demand. In this view of the matter, personal hearing, which the authority had scheduled on 26.2.2019, assumes significance.

14. In the light of communication having reached writ petitioner post date and time fixed for personal hearing, it becomes necessary for writ petitioner to give an opportunity.

15. Before this Court proceeds further, submission of learned counsel for writ petitioner that writ petitioner did go over to the Office of said authority after 4.00 p.m., on receipt of aforementioned communication is noticed. It is also further submission of learned counsel for writ petitioner that nothing really turned on the same. The writ petitioner pointed out that communication was received after 3.00 p.m., and therefore, he could not go before said authority.

16. This Court is of the considered view that said authority ought to have acted diligently and should have ensured that there was sufficient time between notice/service of notice and actual date and time of personal hearing.

17. Fixing of personal hearing on a given date at 3.00 p.m., and despatching the communication with regard to the same, the previous day by ordinary post, is clearly unacceptable.

18. Faced with the above situation, learned Standing Counsel for Chennai Corporation i.e., said authority, submits, on instructions, that personal hearing can now be granted to writ petitioner and that the same will be on 5th July, 2019 (Friday) at 12.00 Noon. The venue will be the Office of said Authority, namely, Regional Deputy Commissioner (South), Corporation of Greater Chennai, Zone-13, Dr.Muthulaxmi Reddy Road, Adyar, Chennai.

19. In other words, by consent and after instructions, date, time and venue for personal hearing has now been fixed as 5.7.2019 (Friday) 12.00 Noon in the Office of said Authority, namely, Regional Deputy Commissioner (South), Corporation of Greater Chennai, Zone-13, Dr.Muthulaxmi Reddy Road, Adyar, Chennai.

20. Writ petitioner undertakes to appear on aforesaid day either in person or through a authorised representative/ advocate without fail and make his objections with supporting documents.

21. Thereafter, respondents shall proceed with the assessment and pass a final assessment order in accordance with law, after taking into account all relevant parameters and determinants. This exercise shall be completed within a period of four weeks from the date of personal hearing on 5.7.2019 or in other words, on or before 2.8.2019.

22. The final assessment order to be passed shall be communicated by respondents to writ petitioner under Due Acknowledgment in a manner known to law, within seven working days from the date on which the final assessment order is made.

23. Though obvious, it is made clear that writ petitioner can assail the final assessment order by way of statutory remedy if the writ petitioner is not satisfied with the final assessment but this will be subject to rules governing the same.

24. As the aforesaid procedure, which has now been evolved by consent and on instructions, douses the anxiety of writ petitioner or in other words, it puts an end to the complaint of writ petitioner in the instant writ petition.

25. Writ petition is disposed of on above terms. However, there shall be no order as to costs. Consequently,

connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Revenue Commissioner, Zone-11,
Ripon Building,
Chennai Corporation,
Chennai-600 003.

2.The Assistant Commissioner,
Zone-11, Valsaravakkam Corporation of Chennai,
Chennai-600 005.

3.The Assistant Revenue Officer, Zone-11,
Ripon Building,
Chennai Corporation,
Chennai-600 003.

4.The Regional Deputy Commissioner (South),
Corporation of Greater Chennai, Zone-13,
Dr.Muthulaxmi Reddy Road,
Adyar,
Chennai.

+1cc to Mr.M/s.Nathan and Associates., Advocate, S.R.No.50558
+1cc to Mr.Mr.T.C.Gopalakrishnan , Advocate, S.R.No.50246

PP(CO)
CB(04/07/2019) WP No.10036 of 2019