IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.04.2019

CORAM
THE HONOURABLE DR. JUSTICE ANITA SUMANTH

WP. No.12521 of 2019
and
WMP. No.12788 of 2019

Mrs.G.Meenakshi Ammal ...Petitioner

Vs

1.The Assessor,
Greater Chennai Corporation,
New Zone – 03,
Corporation Ward N.029,
Madavaram, Chennai – 600 060.

2.The Assistant Revenue Officer,
Greater Chennai Corporation,
New Zone -03,
Corporation Ward No.029,
Madavaram, Chennai – 600 060.

3.The Deputy Commissioner (Revenue & Finance),
Greater Corporation of Chennai,
Rippon Buildings, Park Town,
Chennai – 600 003.

4.The Commissioner,
Greater Corporation of Chennai,
Rippon Buildings, Park Town,
Chennai – 600 003. ... Respondents

....

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorarified Mandamus to call for the records of 1st and 2nd respondent issued on behalf of the 4th respondent in respect of Notice No.1 General Revision:2018-19 dated 16/11/2018 bearing notice Reference No.7/18-19/121204 in respect of the theatre “Meenakshi Theatre” of the petitioner situated in Kamarajar Street, Chinnasekkadu North, Chennasekkadu, Manali, Chennai – 600 068 and quash the same and consequently direct the Respondents to revise the property tax if any in respect of the aforesaid cinema theatre of the petitioner in terms of the existing G.O. (MS) No.76 Municipal Administration and Water Supply (MN. IV) Department dated 26.07.2018 revising the property tax beyond 100%.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

For Petitioner : Mr.A.Palaniappan

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

O R D E R

Mr.A.Palaniappan, learned counsel for the petitioner has raised a challenge on behalf of the petitioners to the notices for property tax Notice No.1 General Revision:2018-19 dated 16.11.2018 bearing notice Reference No.7/18-19/121204 in respect of the theatre "Meenakshi Theatre" of the petitioner situated in Kamarajar Street, Chinnasekkadu North, Chennasekkadu, Manali, Chennai - 600 068 issued by the first and second respondent on behalf of 4th respondent. The grievance of the petitioners is that though they have filed several objections to the demand raised, the same 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 property in question is situated at Kamarajar Street, Chinnasekkadu North, Chennasekkadu, Manali, Chennai - 600 068. 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.
>
> 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

WEB COPY

consideration of the objections of the assessee/petitioner.

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.'

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

WEB COPY

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.'

WEB COPY

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 put forth a variety of objections to the enhancement including that the enhancement is in excess of the percentage mentioned in G.O.(Ms)No.73 dated 19.07.2018 and that no computation sheet has been provided which will give the break up of the impugned demand and others. In any event, I do not propose to delve into the same since the petitioner has rightly filed her objections to the impugned

https://hcservices.ecourts.gov.in/hcservices/

notice on various dates and the same are pending consideration.

*** 5. The applicable property tax per half year is Rs.4,102/- and the petitioner has paid the admitted tax.'**

*** 6. The Petitioner will continue to pay the admitted tax without interruption. Upon notice issued by the third respondent, the petitioner shall appear and furnish all details as called for and necessary orders of assessment shall be passed de novo thereafter.'**

7. This Writ Petition is disposed of in the above terms. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

***Corrected as per
order dated 29.01.2020 made
herein
-s/d-
Assistant Registrar
dt 11/02/2020**

//True Copy//

Sub Assistant Registrar

rkp

To:

1.The Assessor,
Greater Chennai Corporation,
New Zone - 03,
Corporation Ward N.029,
Madavaram, Chennai - 600 060.

To be Substituted order already despatched on 03/5/19.

2.The Assistant Revenue Officer,
Greater Chennai Corporation,
New Zone -03,
Corporation Ward No.029,
Madavaram, Chennai - 600 060.

3.The Deputy Commissioner (Revenue & Finance),
Greater Corporation of Chennai,
Rippon Buildings, Park Town,
Chennai - 600 003.

सत्यमेव जयते
WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4.The Commissioner,
Greater Corporation of Chennai,
Rippon Buildings, Park Town,
Chennai - 600 003.

+1cc to Mr.A.Palaniappan, Advocate, S.R.No.***6995**
+1cc to Mr.T.C.Gopalakrishnan, Advocate, S.R.No.***6613**

WP. No.12521 of 2019
and
WMP. No.12788 of 2019

RSI(CO)

RRS(30/04/2019)
aa12/02/2020

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/