IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATE: 24.06.2019
CORAM
THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.17164 of 2019
&
W.M.P.Nos.16710 and 16711 of 2019

G.Murugan .. Petitioner

Vs.

The Commissioner
Vellore City Municipal Corporation
Vellore, Vellore District .. Respondent

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for the entire records pending on the file of the respondent in pursuant of the demand notice bearing tax No.035/017/00172 dt.08/05/2019 issued by the respondent enhancing the property tax for the year 2017-2018 and 2018-2019 by enhancing nearly 72 times instead of 100% for the marriage hall situate at No.C-7/C, CMC Colony, 1st Street, Sathuvacheri, Vellore-632 009 and quash the same.

For Petitioner : Mr.S.Siva Shanmugam

For Respondent : Ms.Shanthi
Standing Counsel

O R D E R

Mr.S.Siva Shanmugam, learned counsel on record for writ petitioner is before this Court. Ms.P.Shanthi, learned Standing Counsel for respondent Municipality accepts notice on behalf of sole respondent.

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 the writ petition pertains to enhancement of property tax for immovable property owned by the writ petitioner.

4. It is the case of the writ petitioner that he owns immovable property at Door No. C-7/C, CMC Colony, 1st Street, Sathuvacheri, Vellore-632 009 and it is comprised in R.S.No.460/1A in Sathuvacheri Village. It is also submitted

that writ petitioner is running shops therein (hereinafter 'said property' for brevity).

5. Be that as it may, case of the writ petitioner is that half-yearly property tax was Rs.270/- for the said property upto first half-year 2017-18 and respondent suddenly demanded half-yearly property tax at the rate of Rs.9746/- from second half year of 2017-18. This was paid is writ petitioner counsel's say. Now the respondent has issued a demand notice dated 08.05.2019 demanding property tax for said property at the rate of Rs.51,985/- per year.

6. Short point which was canvassed is that there was no provisional assessment, petitioner was not given an opportunity to object to the provisional assessment and final assessment has not been made after taking into account the objections. A judgment of a Hon'ble single Judge of this Court being Order dated 04.02.2019 made in W.P.No.3231 of 2019 relying an earlier order of Hon'ble Division Bench in Sanjai Gupta Vs. The Commissioner, Corporation of Chennai reported in 2009 (2) CTC 465 is of relevance. Vide the aforesaid order, Hon'ble single Judge of this Court has held that in property tax matters, demand notice cannot be issued straight away, provisional assessment order has to be served on the assessee, objections have to be called for, then only final assessment has to be made after taking into consideration all the objections raised by the assessee in a manner known to law and a demand can be made only thereafter. To be noted, this order of Hon'ble Single Judge made in W.P.No.3231 of 2019 arises under 'Chennai City Municipal Corporation Act, 1919' ('CCMC Act' for brevity), but the principle laid down by Hon'ble Division Bench in Sanjai Gupta case from which learned Single Judge drawn inspiration cannot be given a go-by . To be noted, the principle is, a levy and consequential demand has to be preceded by a decision on objections of assessee.

7. In the light of this undisputed position, the following order is passed:

a) Impugned demand notice dated 08.05.2019 bearing Reference No.035/017/00172 is set aside. To be noted, impugned demand notice is set aside solely on the ground that the procedure of making a provisional assessment, calling for objections and then making a final assessment, after taking into account the objections, has not been followed qua property tax. In other words, no opinion or view is expressed on the merits of the matter i.e., merits of enhancement.

b) Respondent Municipality shall issue notice to the writ petitioner i.e., a provisional assessment and call for objections qua proposed enhancement within 15 days from the date of receipt of a copy of this order.

c) Writ petitioner shall respond to the above notice and send his objections within 15 days therefrom.

d) Thereafter, respondent shall pass final assessment after taking into consideration all the objections raised by the writ petitioner.

e) To be noted, the provisional assessment shall give details of parameters that have been applied and mode of computation for the enhancement so that effective objections can be made.

f) There shall be no coercive action until final assessment is made subject to writ petitioner continuing to pay tax for the said property at the existing rate till final assessment is made.

This is writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsm

To

The Commissioner
Vellore City Municipal Corporation
Vellore, Vellore District

+1cc to Ms.Shanthi, Advocate sr.52405

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kk(co)
nr 20/08/2019