IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.17358 of 2019

G.Arunagiri ... Petitioner

Vs.

1.The Commissioner
Vellore Corporation
Vellore-1.

2.The Zonal Officer
Zone - 3
Vellore Corporation
Vellore. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the respondents to fix the correct House Tax as per the Corporation Tax Fixation Act and as like adjacent house taxes imposed to the similarly placed persons the house siutated at No.436-B, Rathinagounder Street, Ward No.45, Zone - 3, Virupatchipuram, Vellore - 2 based on petitioner representation dated 10.05.2019.

For Petitioner : Mr.M.Rajendran

For Respondents : Ms.P.Shanthi
Standing Counsel

O R D E R

Mr.M.Rajendran, 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 respondents.

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 this 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 No.436-B, Rathinagounder Street, Ward No.45, Zone-3, Virupatchipuram, Vellore-2.

5. Writ petitioner contends that similarly placed persons owning properties, which are similar to that of writ petitioner have been levied tax only at the rate of Rs.1049/- per half year, whereas, writ petitioner has been levied tax at the rate of Rs.2958/- per half year, that too without provisional assessment and without calling for objections. It is the specific case of writ petitioner that this objection of writ petitioner pertaining to parity has not been considered by respondent Municipality.

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 this 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. To be noted, on facts, there is no disputation that the writ petitioner was not put on prior notice about enhancement of property tax.

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

a) 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. To be noted, the provisional assessment shall give details of measurements and other parameters/determinants that have been applied for computation of proposed enhancement so that effective objections can be made.

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

c) Thereafter, respondent shall pass final assessment in accordance with law after taking into consideration all the objections raised by the writ petitioner.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner
Vellore Corporation
Vellore-1.

2.The Zonal Officer
Zone - 3
Vellore Corporation
Vellore.

+1cc to M/s.P.Shanthy, Advocate Sr.52407
+1cc to M/s.M.Rajendiran, Advocate Sr.52147

vsn II[co]
srg 29/07/2019