IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 25.07.2019

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.21875 of 2019
and
W.M.P.No.21088 of 2019

A.Vijaya Kumar .. Petitioner

Vs.

The Commissioner
Arcot Municipality
Arcot. .. Respondent

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the entire records in pursuant to the final demand notice dated 03.06.2019 issued by the respondent to the petitioner in pursuant to the property tax assessment number 025/026/00218 and quash the same and to pass such other further orders as this Hon'ble Court may deem fit and proper to the circumstances of the case and thus render justice.

For Petitioner : Mr.T.P.Prabakaran

For Respondent : Mr.Thambusamy

ORDER

Mr.T.P.Prabakaran, learned counsel on record for writ petitioner and Mr.Thambusamy, learned counsel, who accepts notice on behalf of lone respondent are before this Court.

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

3. There is no disputation or disagreement that main writ petition pertains to enhancement of property tax for writ petitioner's immovable property at 'No.17, Gangatheeswaran Koil Street (Part), situate in Arcot Municipality' (hereinafter 'said property' for brevity).

4. There is also no disputation or disagreement that enhancement of property tax for the said property is governed by 'The Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920)', which shall hereinafter be referred to as 'District Municipalities Act' for the sake of brevity, clarity and convenience.

5. A notice dated 23.04.2018 was issued to the writ petitioner, enhancing half yearly property tax for said property from Rs.458/- (Rupees Four Hundred and Fifty Eight only) to Rs.1,874/- (Rupees One Thousand Eight Hundred and Seventy Four only) with effect from II/2017-18 or in other words, with effect from 01.10.2018. Against this enhancement, vide order dated 23.04.2018, writ petitioner has admittedly filed a revision petition to respondent and this revision petition is dated 31.12.2018. There is no disputation or disagreement between the parties that this revision petition is pending even as of today and no orders have been passed on the same.

6. When things stood as above, respondent issued another notice dated 03.06.2019, captioned 'சொத்து வரிக்கான கேட்பு அறிவிப்பு' (hereinafter 'impugned notice' for the sake of convenience and clarity). In the impugned notice, it has been mentioned that property tax for the financial year 2017-18 is Rs.710/- (Rupees Seven Hundred and Ten only) and with regard to the financial year 2018-19, it is Rs.3,748/- (Rupees Three Thousand Seven Hundred and Forty Eight only). To be noted, if half yearly property tax is Rs.1,874/- (Rupees One Thousand Eight Hundred and Seventy Four only) as mentioned supra, property tax for a financial year is obviously Rs.3,748/- (Rupees Three Thousand Seven Hundred and Forty Eight only). It may not be necessary to delve further into these aspects of the matter as the issue that falls for consideration now is disposal of the aforesaid revision petition of writ petitioner dated 31.12.2018. Obviously, there cannot be any demand before disposal of aforesaid revision petition. In other words, while the enhancement is subject matter of revision petition, there cannot be a demand at the enhanced rate, as the scheme of District Municipalities Act and Taxation Rules forming part of the same in the considered view of this Court brings out clearly that disposal of revision will tanatamount to final assessment. Therefore, Sanjai Gupta principle comes into play. To be noted, Sanjay Gupta principle is vide Sanjai Gupta Vs. The Commissioner, Corporation of Chennai reported in 2009 (2) CTC 465 and the principle is to the effect that a demand can be made only after a final assessment which in turn should be made after considering the objections of assessee qua provisional assessment.

7. Faced with the above situation, learned counsel for respondent submits that respondent will dispose of the revision petition as expeditiously as possible and in any event within four weeks from the date of receipt of a copy of this order. This puts an end to the controversy and douses the anxiety of writ petitioner.

8. In the light of the narrative thus far, the following order is passed:

a) impugned notice dated 03.06.2019, bearing Reference No.025/026/00218 is set aside. To be noted, impugned notice is not set aside on merits, but is set aside because the same has been issued during pendency of revision petition.

b) Aforesaid revision petition of writ petitioner dated 31.12.2018 shall be disposed of by respondent on merits and in accordance with law, more particularly, in accordance with Rule 12 of Schedule IV of District Municipalities Act, which provides for reasonable opportunity being given to writ petitioner or writ petitioner's authorised agent to represent his case. Such disposal of revision petition shall be done as expeditiously as possible in any event within four weeks from the date of receipt of a copy of this order.

c) Revision petition disposed of in the aforesaid manner and the order disposing of the revision petition shall be communicated to the writ petitioner under due acknowledgement within 7 working days from the date of disposal.

d) Though obvious it is made clear that if writ petitioner is not satisfied with the order made in revision, it is open to writ petitioner to assail the same in accordance with law and this order will not impede such legal proceedings.



e) There shall be no distraint proceedings or coercive action against said property and/or the writ petitioner till disposal of the revision petition in the aforesaid manner by respondent and communication of the same to writ petitioner under due acknowledgement in the aforesaid manner, subject to the condition that writ petitioner continues to pay half yearly property tax for the said property at the existing rate of Rs.458/- (Rupees Four Hundred and Fifty Eight only) per half year without any default.

Writ petition is disposed of with the above directions. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Vsm

To

The Commissioner
Arcot Municipality
Arcot.

+1cc to Mr.T.P.Prabakaran, Advocate, S.R.No. 64404

CA(CO)
CB(03/09/2019)

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