IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.19942 of 2019
and
W.M.P.No.19455 of 2019

Mrs.Azeema Bi ..Petitioner

vs

1.The Government of Tamil Nadu
Rep. by its Secretary to the Government
Revenue Department
Fort St. George, Rajaji Salai
Chennai - 600 009

2.The Revenue Commissioner, Zone - B
Ripon Building, Chennai Corporation
Chennai - 600 003

3. The Assistant Revenue Officer, Zone - 8
Ripon Building, Chennai Corporation
Chennai - 600 003

4.Revenue Department, Zone - 8
Chennai Corporation
No.36B, 2nd Cross Street
Pulla Ave, Shenoy Nagar
Chennai - 600 030 ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice issued by the 1st respondent vide demand notice vide E/I/18-19/549081 dated 08.10.2018 revising the property tax from Rs.11051.00 to Rs.30,315/- per half year from 2018-2019 and quash the same and subsequently direct the 2nd and 3rd respondents to restructure the property tax amount as according to the provisions of the Chennai City Municipal Corporation Act, 1919.

For Petitioner : Mr.E.Sugantham

For Respondents : Mr.R.P.Pratap Singh
Government Advocate for R1

Mr.T.C.Gopalakrishnan
Standing counsel
(Chennai Corporation)
For R2 to R4

O R D E R

Mr.E.Sugantham, learned counsel on record for writ petitioner, Mr.R.P.Pratap Singh, learned Government Advocate, who accepts notice on behalf of first respondent and Mr.T.C.Gopalakrishnan, learned standing counsel for Chennai Corporation, who accepts notice on behalf of Respondents 2 to 4 are before this Court.

2. With consent of all the learned counsel, main writ petition is taken up, heard out and is being disposed of.

3. Subject matter of this writ petition is enhancement of property tax for writ petitioner's property at '12(507), N.S.K. Nagar Main Road, NSK Nagar, Anna Nagar, Chennai - 600 106, independent building ad-measuring 1492 sq.ft' [hereinafter 'said property' for brevity, clarity and convenience]

4. A notice captioned 'Notice No.1: Property Tax General Revision - 2018-2019 dated 08.10.2018 bearing reference E/1/18-19/549081' [hereinafter 'impugned notice' for brevity] has been called in question.

5. A perusal of the impugned notice reveals that it is a proposal to enhance half yearly property tax for said property from Rs.11,051/- to Rs.30,315/- with effect from I/18-19 or in other words, with effect from 01.04.2018.

6. It is contended by learned counsel for writ petitioner that the enhancement is exorbitant and is not commensurate with said property and parameters / determinants, governing levy of property tax for the same.

7. A perusal of the impugned notice reveals that there is a provision for appeal to the Regional Deputy Commissioner, Greater Chennai Corporation. On instructions, learned standing counsel submits that the jurisdictional Regional Deputy Commissioner in the instant case i.e., qua said property is Regional Deputy Commissioner (Central) with office at Greater Chennai Corporation, Pulla Avenue, Shenoy Nagar, Chennai - 600 040.

8. Though the impugned notice refers to an appeal, this Court vide order dated 04.02.2019 made in W.P.No.3231 of 2019, has held that notices of this nature are provisional assessments, assessee should be permitted to file objections and final assessment orders have to be passed before any demand is made.

9. To be noted, the aforesaid order made by a Hon'ble Single Judge of this Court has been made by drawing inspiration from Sanjai Gupta Vs. The Commissioner, Corporation of Chennai reported in 2009 (2) CTC 465.

10. Sanjai Gupta Case principle is to the effect that before a demand is made, there should be final assessment after taking into account assessee's objections to provisional assessment.

11. Therefore, what would now be sent by the writ petitioner in response to the impugned notice, shall be 'objections' and not an 'appeal'. These objections shall be sent to the aforementioned jurisdictional Regional Deputy Commissioner at the aforementioned address under due acknowledgment.

12. Therefore, writ petitioner is permitted to send objections within a fortnight from today (17.07.2019) to the jurisdictional Regional Deputy Commissioner at the aforesaid address.

13. It is also to be noted that as mentioned in the impugned notice, calculation method for the proposed enhancement is available in the official website of Chennai Corporation at http://www.chennaicorporation.gov.in/online-civic-services/index.htm.

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

a) The impugned notice is a provisional assessment order.

b) Writ petitioner is directed to send objections to the jurisdictional Deputy Commissioner being Regional Deputy Commissioner (Central) at Pulla Avenue, Shenoy Nagar, Chennai - 600 040.

c) If the writ petitioner does not send objections, it is open to the jurisdictional Regional

Deputy Commissioner to proceed and pass final assessment order based on records and files available before him.

d) If the writ petitioner files objections, aforesaid jurisdictional Regional Deputy Commissioner shall consider all objections and pass final assessment order in accordance with law and in a manner known to law as expeditiously as possible and in any event within six (6) weeks from the date of receipt of additional objections.

e) The final assessment order so passed shall be communicated to the writ petitioner under due acknowledgment within seven(7) working days from the date of the final assessment order.

f) Though obvious, it is made clear that it is open to the writ petitioner to assail the final assessment order in a manner known to law, if the writ petitioner is not satisfied with the final assessment order. If such a course is adopted by the writ petitioner, this order will not impede such a legal process.

g) There shall be no coercive action or distraint proceedings qua said property or writ petitioner until final assessment order is made and served on the writ petitioner with due acknowledgment in the aforesaid manner, subject to the condition that the writ petitioner continues to pay property tax at the existing half yearly rate of Rs.11,051/-(Rupees Eleven Thousand Fifty one only) for the said property.

15. This writ petition is disposed of with aforesaid directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

gpa

To

1. The Secretary to the Government
   Revenue Department
   Fort St. George, Rajaji Salai
   Chennai - 600 009

2. The Revenue Commissioner, Zone - B
   Ripon Building, Chennai Corporation
   Chennai - 600 003

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4. Revenue Department, Zone - 8
   Chennai Corporation
   No.36B, 2nd Cross Street
   Pulla Ave, Shenoy Nagar
   Chennai - 600 030

+1cc to Mr.T.C.Gopalakrishnan, Advocate SR.No.60679

+1cc to Mr.Nathan Associates, Advocate SR.No.61514

+1cc to Government Pleader, High Court, Madras SR.No.61199

W.P.No.19942 of 2019 and
W.M.P.No.19455 of 2019

VG II(CO)
GMY(20/08/2019)