IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.07.2019

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THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.20734 of 2019
and
W.M.P.No.19888 of 2019

Mr.L.Amalraj ..Petitioner

vs

1.The Commissioner,
Greater Corporation of Chennai,
Chennai - 600 003.

2.The Joint Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003

3.The Assistant Revenue Officer
Zone-10, Revenue Department,
Greater Chennai Corporation,
117, Jawaharlal Nehru Salai,
NGO Colony, Kodambakkam,
Chennai - 600 026. ..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 of the 1st Respondent viz. Notice No.1 Property Tax General Revision 2018-2019 dated 26.10.2018 under I/1/18-19/1038569 and quash the same consequently direct the 1st Respondent to dispose of the Petitioner representation dated 15.06.2019 in accordance with law and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.Uttam Joseph Cheriyan

For Respondents : Mr.T.C.Gopalakrishnan
Standing counsel
(Chennai Corporation)
For R1 to R3

O R D E R

Mr.Uttam Joseph Cheriyan, learned counsel on record for writ petitioner and Mr.T.C.Gopalakrishnan, learned standing counsel for Chennai Corporation, who accepts notice on behalf of all the three respondents 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. Subject matter of this writ petition is enhancement of property tax for writ petitioner's property at '19(10), P.T.Rajan Road, K.K.Nagar, Chennai - 600 078, Independent Building, Extent of Land:6521 Sq.Ft' [hereinafter 'said property' for brevity, clarity and convenience]

4. A notice captioned 'Notice No.1: Property Tax General Revision - 2018-2019 dated 26.10.2018 bearing reference I/1/18-19/1038569' [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.57,149/- to Rs.2,19,280/- 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 besides parameters and determinants, governing the same.

7. A perusal of the impugned notice reveals that it says 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 is Regional Deputy Commissioner (Central) at office of 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 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.

12. To be noted, from the case file placed before this Court, it comes to light that the writ petitioner has already sent one set of objections on 15.06.2019 but it does not advert to parameters / determinants and mode of computations. Therefore, the writ petitioner is permitted to file additional objections within a fortnight from the date of receipt of a copy of this order and the objections dated 15.06.2019 at Page No.87 of the case file (Typed set) and the objections to be filed within a fortnight shall be treated together as one composite objections and dealt with in accordance with law.

13. It is also to be noted that as mentioned in the impugned notice, the 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) In addition to objections dated 15.06.2019, sent by the writ petitioner, further objections raising all grounds including grounds raised in instant writ petition shall be sent by the writ petitioner 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 additional 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 additional 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.57,149/-(Rupees Fifty Seven Thousand One Hundred and Forty Nine 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

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner,
Greater Corporation of Chennai,
Chennai - 600 003.

2.The Joint Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003

3.The Assistant Revenue Officer
Zone-10, Revenue Department,
Greater Chennai Corporation,
117, Jawaharlal Nehru Salai,
NGO Colony, Kodambakkam,
Chennai - 600 026.

+1cc to Mr.S,Sivasangaran, Advocate, S.R.No.59927
+1cc to Mr.T.C.Gopalakrishnan, Advocate, S.R.No.59856

W.P.No.20734 of 2019
and
W.M.P.No.19888 of 2019

EV(CO)

RRS(29/08/2019)