

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.08.2019

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.25262 of 2019

and W.M.P.Nos.24835 and 24836 of 2019

Mr.S.Madhava

.. Petitioner

Vs.

1. The Commissioner

Greater Corporation of Chennai
"Ripon Building"
Chennai - 600 003

2. The Regional Deputy Commissioner

Greater Corporation of Chennai
Zone No.9, Ward No.111
No.1, Lake Area 4th Cross Street
Nungambakkam
Chennai - 600 034

3. The Assistant Revenue Officer

Greater Corporation of Chennai
Zone No.9, Ward No.111
No.1, Lake Area 4th Cross Street
Nungambakkam
Chennai - 600 034

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent dated 09.01.2019 relating to the assessment order bearing No.S/1/18-19/1213792 of the property of the petitioner bearing No.442,C Wing, 4th Floor, Anna Salai, Thousand Lights, Chennai - 600 006 and quash the same and direct the 3rd Respondent to conduct an enquiry in case of assessment of Corporation taxes.

For Petitioner : Mr.A.Vikash

For Respondents : Mr.T.C.Gopalakrishnan
Standing Counsel
for Chennai Corporation

ORDER

Mr.A.Vikash, learned counsel on record for writ petitioner and Mr.T.C.Gopalakrishnan, learned Standing Counsel for Chennai Corporation, who has accepted 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 main writ petition arises under 'Chennai City Municipal Corporation Act, 1919' ('CCMC Act' for brevity) and the Rules framed thereunder forming part of Schedule II of CCMC Act.

4. Instant writ petition pertains to enhancement of property tax for immovable property at ''442/CWING/4F/10 (602/10), Anna Salai, Thousand Lights, Chennai - 600 006, 432 sq.ft, flat in multistoried building' (hereinafter 'said property' for brevity).

5. It is the case of the writ petitioner that the said property was assessed to property tax by Chennai Corporation and half-yearly property tax was Rs.5,382/- (Rupees Five Thousand Three Hundred and Eighty Two only).

6. It is the further case of the writ petitioner that on checking the official website of Chennai Corporation, they were shocked to learnt that the half-yearly property tax of said property has been increased from Rs.5,382/- (Rupees Five Thousand Three Hundred and Eighty Two only) to Rs.25,775/- (Rupees Twenty Five Thousand Seven Hundred and Seventy Five only).

7. It is the case of the writ petitioner that they have not been put on notice before the enhancement and no opportunity to object to the proposed or provisional assessment / enhancement has been given.

8. Learned Standing Counsel for Chennai Corporation submits that provisional notice was despatched by ordinary post, but as the despatch was by ordinary post, there is no acknowledgment for the same much less to show receipt by the writ petitioner.

9. Learned senior counsel for writ petitioner, on instructions, asserts that writ petitioner has not received any provisionial assessment order.

10. It is imperative that a provisional assessment order is served on the writ petitioner, writ petitioner is given an opportunity to send objections and thereafter a final assessment is passed before a demand is made.

11. In this regard, this Court deems it appropriate to refer to earlier order of this Court dated 04.02.2019 made in W.P.No.3231 of 2019. To be noted, this order was

made by a Hon'ble Single Judge drawing inspiration from a Division Bench judgment of this Court in Sanjai Gupta Vs. The Commissioner, Corporation of Chennai reported in 2009 (2) CTC 465. Sanjay Gupta principle is to the effect that there should be provisional assessment, objections should be called for and thereafter a final assessment, after taking into account the objections made by the assessee, should be made before a demand is raised.

12. In this view of the matter, the following order is passed:

a) The third respondent will send provisional assessment order proposing enhancement of property tax from Rs.5,382/- (Rupees Five Thousand Three Hundred and Eighty Two only) to Rs.25,775/- (Rupees Twenty Five Thousand Seven Hundred and Seventy Five only) to the writ petitioner under due acknowledgment within a fortnight from the date of receipt of a copy of this order;

b) Writ petitioner shall send his objections to the provisional assessment within a fortnight therefrom to the Regional Deputy Commissioner. To be noted, this Court is informed that the jurisdictional Regional Deputy Commissioner in this case is Regional Deputy Commissioner (Central), having office at Pulla Avenue, Shenoy Nagar, Chennai - 600 040. Therefore, objections shall be send to the jurisdictional Regional Deputy Commissioner;

c) The aforesaid jurisdictional Regional Deputy Commissioner shall thereafter consider all objections raised by the writ petitioner and pass a final order on merits and in accordance with law as expeditiously as possible and in any event within four weeks therefrom;

d) The final Assessment Order so passed shall be communicated to the writ petitioner under due acknowledgment within seven working days from the date of final assessment;

e) To be noted, jurisdictional Regional Deputy Commissioner arrayed as Respondent No.2 in this writ petition, this Court is informed, is the Regional Deputy Commissioner, Zone 9, Nungambakkam, whereas jurisdictional Regional Deputy Commissioner for said property is jurisdictional Regional Deputy Commissioner (Central). Therefore, Standing Counsel for Chennai Corporation shall communicate this order under a cover of suitable letter to the jurisdictional Regional Deputy Commissioner

(Central) immediately on receipt of a copy of this order;

(f) There shall be no distraint proceedings or coercive action against the said property/writ petitioner qua property tax for said property, until final assessment order is made by said Officer and until it is served on the writ petitioner under due acknowledgement in the aforesaid manner, subject to the condition that writ petitioner continues to pay half yearly property tax at the existing rate of Rs.5,382/- (Rupees Five Thousand Three Hundred and Eighty Two only) without any default.

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

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

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Chennai - 600 034

+1cc to Mr.P.Subbareddy , Advocate SR.No. 75351

+1cc to Mr.T.C.Gopalakrishnan , Advocate SR.No. 74998

W.P.No.25262 of 2019 and

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A.SK(24/09/2019)