IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 26.08.2019

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.25144 of 2019
and
W.M.P.Nos.24703 and 24705 of 2019

Rukmini Theatre .. Petitioner
Rep. by its Managing Partner
Mr.Panneer Selvam

.Vs.

1. The Commissioner
Corporation of Chennai
Rippon Building
Chennai - 600 003

2.The Regional Deputy Commissioner
Greater Chennai Corporation
No.61, Basin Bridge Road
Old Washermenpet
Chennai - 600 021

3. The Assessor
Revenue Department
Zone - 10 (Ward 127)
Corporation of Chennai
Chennai

4.The Assistant Revenue Officer
Revenue Department
Zone - 10 (Ward 127)
Corporation of Chennai
Chennai ..Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records relating to Notice of the 4th respondent in demand notice dated 19.08.2019 published in the official website of the respondents, to quash the same and to consequently direct the respondents to continue to accept the previous assessed tax for the petitioner's premises.

For Petitioner : Mr.K.Venkataramani
Senior Counsel
for Mr.A.Saravanan

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

ORDER

Mr.K.Venkataramani, learned senior counsel appearing on behalf of 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 four 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 1154/1(54/1), EVR High Road, Koyambedu, Chennai 107 with New Assessment No.10-127-06495-000 (Old No.05-065-0408-001) (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 property tax was Rs.44,498/- (Rupees Forty Four Thousand Four Hundred and Ninety Eight 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.44,498/- (Rupees Forty Four Thousand Four Hundred and Ninety Eight only) to Rs.2,57,085/- (Rupees Two Lakhs Fifty Seven Thousand Eighty 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 provisioal 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 fourth respondent will send provisional assessment order proposing enhancement of property tax from Rs.44,498/- (Rupees Forty Four Thousand Four Hundred and Ninety Eight only) to Rs.2,57,085/- (Rupees Two Lakhs Fifty Seven Thousand Eigthy 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 (North) 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.44,498/- (Rupees Forty Four Thousand Four Hundred and Ninety Eight 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.

gpa

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1. The Commissioner
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Revenue Department
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Chennai

5.The Regional Deputy Commissioner(Central)
Office at Pulla Avenue,
Shenoy Nagar,
Chennai - 40.

+1cc to Mr.A.Saravanan, Advocate, SR.No.72563

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Kak(16/10/2019)