IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.2705 of 2018
and CMP.No.22154 of 2018

Chennai Petroleum Corporation Ltd.,
536, Anna Salai
Teynampet
Chennai - 600 018. ... Appellant / Petitioner

Vs.

1.The Secretary
Department of Municipal Administration
and Water Supply
Government of Tamil Nadu
Fort St.George
Secretariat, Chennai - 600 009.

2. The Executive Officer
Manali Municipality
Chennai - 600 068.

Now known as :
The Zonal Officer
Zone 2, Corporation of Chennai
No.127, Padasalai Street,
Manali, Chennai - 600 068. ... Respondents / Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 07.09.2018 in W.P.No.17289 of 2010 and allowing this appeal.

WP.NO.17289/2010:

Petition filed under Section 226 of the Constitution of India praying this court the issuance of Writ of Ceriorarified Mandamus to call for the records from the 2nd Respondent culminating in the demand notice dated 14.7.2010 quash the same and consequently direct the 2nd Respondent to release the building plans submitted by the Petitioner with respect to the land comprised in S.No.169 part 176 part and 178 part of Manali Village Ambattur Taluk of Tiruvallur District which have been approved by the CMDA vide letter No.C4/18474/09 and are pending with the 2nd Respondent.

For Appellant : Mr.B.Kishore
for Mr.R.Senthil Kumar

For Respondents: Mr.E.Manoharan,
Addl. Government Pleader [R1]
R2 - No appearance

JUDGMENT

(Judgment of the Court delivered by T.S.Sivagnanam, J.)

This appeal has been filed by the writ petitioner challenging the order passed in W.P.No.17289 of 2010 dated 07.09.2018. This writ petition was filed by the appellant, challenging the demand notice dated 14.07.2010, issued by the Manali Municipality, in so far as it demands vacant land tax.

2. The appellant has intended to establish a Polytechnic College for Men in Manali Village, Ambattur Taluk, Tiruvallur District, for which they sought planning approval from the Government and same was accorded to them, and as the lands were under the jurisdiction of Manali Municipality, notice was issued to the appellant by the second respondent calling upon them to pay building licence fee, charges towards street light maintenance, canals maintenance, road maintenance and vacant land tax etc., The total demand was Rs.84,29,448/-, of which Rs.53,52,286/- was the vacant land tax. The appellant has remitted all other fees and charges demanded by the Municipality, except the vacant land tax. Thereafter, the appellant without even raising any objection to the Municipality, rushed to this Court and filed a writ petition in W.P.No.17289 of 2010.

3. The said writ petition was entertained and an order of interim injunction was granted. The matter was heard by the Writ Court and was disposed of vide impugned order dated 07.09.2018.

4. As of now, the area where the appellant institution is in existence falls within the jurisdiction of "Greater Corporation

Chennai". Admittedly, the Municipality did not file any counter affidavit in the writ petition, which is pending since 2010. During September 2011, the area in question get annexed to Greater Corporation of Chennai. Even thereafter, the Corporation of Chennai took no steps to contest the matter or got themselves substituted in the place of Municipality. It had not even filed the counter affidavit to vacate the interim order granted.

5. From the records placed before this Court, it is evidently clear that the appellant has not been put on notice about on what basis the vacant land tax was assessed at Rs.53,52,286/-. In fact, this is the principle ground on which the writ petition has been filed and even before this Appellate Court, this is the only ground that was canvassed by the appellant counsel.

6. The fundamental principle of law is that whenever any person is assessed to tax, he is entitled to be brought on notice about the basis of the assessment. Therefore, a pre-assessment notice is a pre-requisite. In the instant case, the property involved is for running an educational institution, therefore, it is all the more required that the lands and buildings of the appellant in question should be inspected before a demand was made. This is essential in the appellant's case, because the area where the building is situated was originally within the jurisdiction of Manali Municipality.

7. Thus for the above reasons, we are inclined to issue a direction in this appeal, so as to enable the appellant to be informed about the basis of assessment and also grant an opportunity to them to putforth their objections, if any.

8. In the result, the writ appeal is allowed, with a direction to the second respondent, the Zonal Officer, Corporation of Chennai to cause inspection in the appellant's property within a period of two weeks from the date of receipt of a copy of this judgment, after notice to the appellant and after carrying out a thorough inspection of the land, building and other amenities provided in the premises of the appellant, the second respondent shall file a report. The said report along with pre-assessment notice shall be forwarded to the appellant, giving them sufficient time to file their objections. On receipt of the objections, if any, received from the appellant, the authority concerned shall afford an opportunity of personal hearing to the appellant and proceed to make the final assessment, in accordance with law. Accordingly, the

order dated 07.09.2018 in W.P.No.17282 of 2010 is hereby set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To:

1.The Secretary
Department of Municipal Administration
and Water Supply
Government of Tamil Nadu
Fort St.George
Secretariat, Chennai - 600 009.

2. The Executive Officer
Manali Municipality
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Now known as :
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No.127, Padasalai Street,
Manali, Chennai - 600 068.

+1cc to Mr.R.Senthil Kumar, Advocate sr.no.10452
+1cc to M/s.R.Arunmozhi, Advocate sr.10678
+1cc to Government Pleader sr.no.11404

W.A.No.2705 of 2018

gp(co)
nr 05/03/2019