IN THE HIGH COURT OF JUDICATURE OF MADRAS

RESERVED ON : 12.08.2020

PRONOUNCED ON : 17.08.2020

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.9734 of 2016
and
W.M.P.No.8717 of 2016

M/s.Sri Natwarlalji Trust Fund
rep. by its Trustee
Aswinkumar K.Shah,
No.162, N.S.C. Bose Road,
Chennai-600 003. ...Petitioner

Vs.

1. The Commissioner,
   Corporation of Chennai,
   Rippon Buildings,
   Chennai-600 003.

2. The Zonal Officer,
   Zone V,
   Corporation of Chennai.
   Chennai. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the second respondent in proceedings Z.O.V.R.D.C.No.R3/SPL/2015 dated 24.07.2015 and Order No.7/15-16/3104 dated 24.07.2015 and to quash the same.

For Petitioner : Mr.R.Thiagarajan

For Respondents: Ms.Karthika Ashok,
Standing Counsel

ORDER

With the consent of Mr.R.Thiagarajan, learned counsel for the petitioner and Ms.Karthika Ashok, learned Standing counsel appearing on behalf of the respondents, the Writ Petition has been taken up on 12.08.2020 and heard through video conferencing.

2. The brief facts of the case are as follows:

The petitioner claims to be the owner of the property at New No.144, Old No.163, NSC Bose Road, Chennai-3. The respondent corporation had issued provisional notice dated 07.11.2007 proposing to revise the half yearly tax from the existing Rs.44,394/- to Rs.70,369/-. The provisional assessment was on the basis of an inspection conducted. The petitioner had given his objections on 04.02.2008 objecting to the increase. On 24.07.2015, the revised assessment was passed through the impugned order, enhancing the property tax from Rs.70,369/- to Rs.2,00,130/- for the half yearly tax from the assessment year 1/2009-2010, stating that Section 137B of the Chennai City Municipal Corporation Act, 1919 enables the corporation to revise the corporation tax. Aggrieved against the impugned revision, the present Writ Petition has been filed.

3. One of the main grounds raised by the petitioner is that when the provisional assessment was issued on 07.11.2007, the subject property was inspected and accordingly, the half yearly property tax was proposed to be increased to Rs.70,369/-. However, when the respondent herein had sought for passing the revised assessment order, the half yearly tax has been arrived at Rs.2,00,130/- without any basis.

4. On a perusal of the impugned order of the revised assessment it is seen that no reasons have been assigned for the revised assessment. When the provisional assessment was made, the property was inspected, which aspect is revealed in the provisional notice itself. However, when the proposed enhancement in the provisional notice was further enhanced in the revised assessment order i.e., from Rs.70,369/- to Rs.2,00,130/-, there is absolutely no justification given in the proceedings. As a matter of fact, the amount revised assessment also establishes that there was no inspection conducted after the provisional assessment. When the respondent had chosen to differ with the proposed enhancement as per the provisional assessment from Rs.70369/- to Rs.2,00,130/- there should be some basis for such an exorbitant enhancement. On the other hand, the impugned order seems to be a format order with blanks to be filled in with regard to the inspection date and provisional dates. A mere power to revise the tax under Section 137B, without assigning the reasons to increase the tax from the original proposal, particularly when the earlier proposal was on the basis of an inspection of the property, may not be sufficient or justifiable. In the absence of any reason or justification as to why the revised assessment was thrice the proposed enhancement in the provisional notice, the enhancement itself is totally unjustifiable and thereby, liable to be set aside.

5. In the light of the above observations, the impugned orders in Z.O.V.R.D.C.No.R3/SPL/2015 and Order No.7/15-16/3104 dated 24.07.2015, are set aside. However, the respondent are at liberty to conduct a fresh inspection of the subject property at New No.144, Old No.163, NSC Bose Road, Chennai-3 and thereafter issue a fresh provisional assessment for property tax, after giving due opportunity to the petitioner to put forth his objections and thereafter pass final assessment orders. The concerned respondent shall endeavor to complete the reassessment proceedings as expeditiously as possible. Till such time, the petitioner herein shall continue to pay the half yearly property tax at the rate of Rs.70,369/-.

6. The Writ Petition stands allowed in the above terms. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.

2.The Zonal Officer,
Zone V,
Corporation of Chennai.
Chennai.

+1 cc to Mr.K.Mani, Advocate in Sr.No.26877
+1 cc to M/s.Karthikaa Ashok, Advocate in Sr.No.27125

ORDER MADE IN
W.P.No.9734 of 2016
and
W.M.P.No.8717 of 2016

ss(co)
rv(22/9/2020