BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :**04.05.2020**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.(MD)No.6070 of 2020
and
W.M.P.(MD).No.5259 of 2020

J.Roop Kumar ... Petitioner

Vs.

1.The Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Maligai, Thallakulam,
Madurai-625 002.

2.The Assistant Commissioner (Zone 2),
Madurai City Municipal Corporation,
Industrial Estate, K.Pudur,
Madurai-625 007. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining the impugned property tax demand notice dated 01.03.2019 issued by the respondents in respect of Assessment No.10637, for the property in Plot.No.131, East Fifth Street, K.K.Nagar, Madurai and quash the same and consequentially to assess the property tax afresh with effect from 01.04.2015 till 30.09.2017 at commercial rate and to assess the property tax with effect from 01.10.2017 at residential rate and to make a demand after adjusting the tax already paid by the petitioner.

For Petitioner : Mr.J.Barathan
for MrT.R.Jeyapalam
For Respondents : Mr.T.S.Mohamed Mohideen
Standing Counsel

O R D E R

This Writ Petition was filed on 16.03.2020 and has been posted for admission before this Court today (04.05.2020). The hearing was conducted through video conferencing.

2. I had the benefit of hearing Mr.J.Barathan, learned counsel appearing for the petitioner and Mr.T.S.Mohamed Mohideen, learned Standing Counsel, who took notice on behalf of the respondents, namely, the Commissioner, Madurai City Municipal Corporation and the Assistant Commissioner (Zone 2), Madurai City Municipal Corporation.

3. The petitioner in his affidavit had stated that the property bearing plot No.131, East Fifth Street, K.K.Nagar, Madurai Town, originally belonged to his mother, and later devolved to the petitioner. The assessment was also transferred in his name in the revenue records. He claims to have paid the property tax, water tax, drainage maintenance charges up to second half year of 2017-2018. The petitioner was employed in Alagappa University and owing to that, had let out the property on rent and the tenant had put the property to commercial use. This was during the period 2015-2017. It has been informed by the learned counsel appearing for the petitioner that originally the property was assessed to pay at around Rs.3,000/- per half year. Subsequently, the impugned order came to be passed and in the same time, the rental value per square feet at Rs.9/- had been fixed and a demand has been raised for a sum of Rs.47,580/- which has been claimed to be the property tax assessed per half year. The learned counsel claims that this is highly un-reasonable and also complains that necessary opportunity had not been granted to him prior to re-assessment of the property tax.

4. Mr.T.S.Mohamed Mohideen, learned Standing Counsel, appeared for the respondents. Learned counsel stated on instructions, that even as on date, the petitioner has paid the electricity charges only at commercial rate. This fact is disputed by the learned counsel appearing for the petitioner.

5. This Court while examining the issue in a writ jurisdiction cannot determine the facts. It is also not brought to the notice of this Court that there is an appeal remedy before the Appellate Authority. However, the petitioner appears to have given a representation on 12.12.2018 and a further representation on 21.02.2020, seeking revision of the property tax. The respondents have not passed any order on those representations. It would only be appropriate that the respondents examine the representations, by giving an opportunity to the petitioner to put forth his version and examine the same and thereafter assess the property tax.

6. In view of these facts, the order impugned in the Writ Petition is set aside. However, the matter is remanded back to the second respondent, namely, the Assistant Commissioner (Zone 2), Madurai City Municipal Corporation, to examine the representations of the petitioner dated 12.12.2018 and 21.02.2020 and also issue notice to the petitioner and hear the petitioner regarding the fact

of letting out the property for commercial purpose between 2015-2017 and later enjoying the property as a residential unit from the year 2017 and thereafter, assess the property for tax. The entire exercise by the second respondent should be completed on or before 31.07.2020.

7. With these observations, the Writ Petition itself stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

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Sub Assistant Registrar(CS)

Tsg

TO

1.The Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Maligai, Thallakulam,
Madurai-625 002.

2.The Assistant Commissioner (Zone 2),
Madurai City Municipal Corporation,
Industrial Estate, K.Pudur,
Madurai-625 007.

Order made in
W.P.(MD)No.6070 of 2020
Dated:04.05.2020

MK (15.05.2020) 3P 3C