IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.1901 of 2021
and WMP.Nos.2148 & 2150 of 2021

P.J.Eapen

…Petitioner

Vs.

1.The Greater Chennai Corporation,
Rep by its Commissioner, Rippon Building,
No.1131, EVR Periyar Salai, Park Town,
Chennai- 600 003.

2.The Deputy Commissioner (Land F)
Greater Chennai Corporation,
Rippon Building, Chennai- 600 003.

3.The Assisstant Revenue Officer,
Zone 9, Ward 113, 8 Lake Area,
Nungambakkam Chennai- 600 034.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the entire records relating to the demand notice dated nil affixed on the petitioners premises on 31.01.2020 and 2nd respondent's demand notice dated 18.12.2020 for payment of Rs. 14 36 852/- as property tax in respect of the property tax ID Number 09-113-02355- 000 for the property situate at 15 (9), Nungambakkam High Road, Chennai- 600 034 from the file of the Respondents and quash the same with directions to the Respondents to provide the reassessment order and notice to the petitioner in respect of the enhanced half-yearly property tax from Rs. 1 10 920/- to Rs.5,45,530/- and refrain from making any demand towards enhanced or revised property tax from the petitioner as per the Demand notice of the 2nd respondent dated 18.12.2020 without following principles of natural justice, the procedure or method of assessment of property tax as per the due process of law as provided under Chennai City Municipal Corporation Act, 1919.

For Petitioner : Ms.Lita Srinivasan
For Respondents : Ms.S.Vaitheeswari
Standing Counsel

ORDER

Heard Ms.Lita Srinivasan, learned counsel for the petitioner and Ms.S.Vaitheeswari, learned Standing Counsel for the respondents.

2. The petitioner runs a hotel under the name and style of Hotel Ranjith (property/property in question) in Chennai. The dispute in question relates to the assessment in respect of property tax of the property in question under the provisions of the Chennai City Municipal Corporation Act, 1919 (in short 'Act').

3. According to the learned counsel for the petitioner, the property in question is being assessed to property tax for several years. Pursuant to a dispute raised on the quantification of property tax, the matter had been settled through Lok Adalath on 27.12.2020, wherein half yearly tax was computed at an amount of Rs.81,315/-from the first half year of 1993-94. From the second half of 1998-99, the tax was revised to Rs.1,10,920/- as per the order of the Taxation Appellate Tribunal in Appeal No.133 of 2005. The petitioner, according to the learned counsel, has been remitting tax at the aforesaid rates regularly and within time.

4. While this is so, a notice had come to be issued on 01.11.2018 styled as 'Notice No.1, General Revision 2018-19' revising arbitrarily the amount of tax payable, manifold. This was followed by demand notice dated 14.11.2018 calling for payment of a sum of Rs.9,80,140/-. The petitioner appears to have been in correspondence with the authorities in regard to the arbitrary increase in the tax imposed.

5. A request was also made for remitting the property tax in instalments after the onset of the COVID-19 pandemic. No response is stated to have been received to the aforesaid communications. Since coercive recovery proceedings were initiated for recovery of the alleged outstanding arrears, a legal notice was issued, to which there was a response dated 18.12.2020 reiterating the demand made earlier under threat of recovery action invoking the provisions of the Act. Hence this Writ Petition.

6. When the matter had come up for admission, I had narrated, even at the time of grant of interim protection, that the impugned proceedings for revision appeared to be based on G.O.Ms.No.73 of 2018 dated 19.07.2018, which has been kept in abeyance by subsequent Government Order bearing No.G.O.Ms.150 of 2019 dated 19.11.2019. The earlier G.O. was kept in abeyance,

since it was felt that detailed consultation was necessary with all stake holders prior to revising the rates of property tax across the State. Thus to the extent to which the impugned demand emanates from a general notice for revision, admittedly based on G.O.Ms.No.73 of 2018, the same has no legs to stand and is quashed.

7. Coming to the matter of assessment itself, the counter filed by the respondents states that the petitioner's property is categorised as a special type building assessable as per Notification bearing No.122 of 2010 dated 06.01.2010. This Notification is produced for the first time in this litigation and the petitioner submits that this has never been the basis for assessment thus far. The counter also refers to Section 137-B which deals with escapement from assessment.

8. I have set aside notice dated 01.11.2018 on the ground that all proceedings for general revision have been kept in abeyance. Thus there is no merit in the reference made to Section 137-B of the Act. Any move to assess or re-assess is liable to be taken only after issuance of show cause notice soliciting a response, inspection of the property in question, if thought necessary and personal hearing of the assessee concerned. This procedure has not been followed in the present case.

9. For the aforesaid reasons, the impugned demand dated 18.12.2020 stands quashed. It is made clear that the petitioner will continue to remit the tax at the rates pre-2018, regularly and within time. Learned counsel for the petitioner states that the petitioner has been making repeated requests for waiver/payment of tax in instalments. Such request, if and when made, shall be adjudicated upon by the authorities after hearing the petitioner, in accordance with law.

10. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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PL (CO)
PR (13/07/2021)