IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.1479 OF 2021
AND
W.M.P.NO.1675 OF 2021

(Through Video Conferencing)

The Chennai Petroleum Corporation Limited,
536, Anna Salai, Teynampet,
Chennai - 600 018. ... Petitioner

.Vs.

1. The Greater Chennai Corporation,
Represented by its Commissioner,
Ripon Building,
EVR Salai, Chennai - 600 003.

2. The Zonal Officer/Assistant
Revenue Officer II,
Zone II,
Greater Chennai Corporation,
No.1, Kamarajar Salai,
Manali, Chennai - 600 068. ... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records from the second respondent, culminating to the letter and Bill No.02-018-07101-000 dated 13.02.2020 viz., the purported demand and the Reminder Notice dated 20.08.2020 bearing Reference No.Z.O.2.R.D.C.No.R/01817/2019 issued by the second respondent arising out of the purported Pre-Assessment Notice dated 13.01.2020 and quash the same.

For Petitioner : Mr.Sathish Parasaran
Senior Counsel
For Mr.S.Arjun Suresh

For Respondents : Mr.Raman Laal
Additional Advocate General
Assisted by
Ms.S.Vaitheeswari
Senior Counsel

ORDER

This is the second round of litigation by the petitioner. Earlier, the petitioner had filed W.P.No.17289 of 2010 before this Court which came to be disposed by an order dated 07.09.2018. The petitioner had challenged demand notice issued by the second respondent Corporation on 14.07.2010 demanding a sum of Rs.84,29,448/-. The said wit petition was disposed with the following observations:-

> "9. Accordingly, the following orders are passed:-
>
> (i) The claim of the writ petitioner with reference to the prayer sought for in the present Writ Petition stands rejected.
>
> (ii) The writ petitioner is directed to pay arrears of property tax of Rs.49,39,992/- (Rupees Forty Nine Lakhs Thirty Nine Thousand Nine Hundred and Ninety Two Only) within a period of four (4) weeks from the date of receipt of a copy of this order.
>
> (iii) In the event of failure on the part of the writ petitioner in paying the arrears of property tax within the time limit stipulated above, the Corporation of Chennai, is directed to initiate all further action by following the procedures contemplated under law within a period of four(4) weeks thereafter".

2. The said order was also challenged by the petitioner before the Hon'ble Division Bench of this Court in W.A.No.2705 of 2018 which came to be disposed, by an order dated 06.02.2019 with the following observations:-

> "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".

3. It is the specific case of the petitioner that the tax demanded in the Bill dated 13.02.2020 Reminder Notice dated 20.08.2020 bearing Reference No.ZO.ZR.D.C.No.R/01817/2019 for the entire area is not sustainable as admittedly a portion of the land has been utilized for constructing CPCL Polytechnic wayback in 2011 and therefore not sustainable.

4. Learned Senior counsel for the petitioner submits that the inspection report of the property together with Pre-Assessment notice was to be furnished to the petitioner and the petitioner was entitled to file its objections if any to the same and it is only thereafter the 2nd respondent was required to pass appropriate orders after calling upon the petitioner for a personal hearing.

5. It is submitted that inspection was done without due notice to the petitioner. It is further submitted that inspection report was also not furnished to the petitioner before the impugned demand notice was issued. It is further submitted that in the demand impugned bill dated 13.02.2020 has been made without affording an opportunity of personal hearing to the petitioner. It is therefore submitted that the impugned order has to go as it has been passed in violation of the order passed by the Division Bench of this Court .

6. Appearing on behalf of the learned Additional Advocate General for the respondents fairly submits that from the records on available, it appears that the impugned bill has been issued without calling upon the petitioner for a personal hearing and therefore the matter may be remitted back to the 2nd respondent.

7. The learned Additional Advocate General for the respondents submits that copy of the Inspection Report will be furnished to the petitioner before making a fresh demand.

8. In view of the above submissions of the learned Senior Counsel for the petitioner, the learned Additional Advocate General for the respondents, the impugned order/demand notice dated 13.01.2020 is quashed and the case is remitted back to the 2nd respondent to make a fresh determination of tax after affording an opportunity of personal hearing to the petitioner.

9. The copy of the re-inspection report already on file shall be furnished to the petitioner by the second respondent within a period of 15 days from the date of receipt of a copy of this order.

10. The petitioner shall file its objections, if any, to the said inspection report and if required may request to the second respondent to revisit the property for re-inspection of the property in presence of the petitioner's representative in which case latter shall obtain a dated signature and acknowledgement from the authorised representative of the petitioner in compliance of the order dated 06.02.2019 in W.A.No.2705 of 2018 and give a copy of the re-inspection report to the petitioner within 15 days of re-inspection .

11. The petitioner shall file its objection in the event of re-inspection within 15 days from the date of receipt of re-inspection report.

12. The second respondent shall thereafter endeavour to pass a speaking order on merits and in accordance with law, within a period of 60 days and issue a demand notice to the petitioner.

13. This writ petition is allowed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd

To

1. The Commissioner,
The Greater Chennai Corporation,
Ripon Building, EVR Salai,
Chennai - 600 003.

2. The Zonal Officer/Assistant
   Revenue Officer II,
   Zone II,
   Greater Chennai Corporation,
   No.1, Kamarajar Salai,
   Manali, Chennai - 600 068.

+1cc to Mr.S.Arjun Suresh, Advocate, S.R.No.67797
+1cc to Ms.S.Vaitheeswari, Advocate, S.R.No.67584

W.P.NO.1479 OF 2021

UM(CO)
PBS/31/01/2022