IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH
W.P. Nos.2377 of 2021 & 20328 of 2019
and
WMP. Nos.2682 & 2681 of 2021 and 19672 & 19671 of 2019

Chennai Hotels (India) Private Limited
Rep. by its Director,
R.Srinivasan, S/o.D.Ramadas,
Having Office at
New No.4 Old No.22, Vallabha Agraharam,
Triplicane High Road, Chennai - 600 005.

.... Petitioner in both WPs

Vs.

1.Metro Water and Sewerage Board,
Represented by its Managing Director,
Rippon Buildings,
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 031.

2.Area Engineer -IX
No.1 Dr.Ranga Road, Abiramapuram,
Chennai - 600 018.

3.Assistant Executive Engineer,
Area -IX, Depot -114, CMWSSB,
No.17, Jani Jan Khan Road,
Royapettah, Chennai - 600 014.

4.Assistant Engineer,
Area -IX, Depot -114, CMWSSB,
No.17, Jani Jan Khan Road,
Royapettah, Chennai - 600 014.

5.Depot Manager,
Area -IX, Depot -114, CMWSSB,
No.17, Jani Jan Khan Road,
Royapettah, Chennai - 600 014.

.... Respondents in W.P. No.2377 of 2021

1.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,

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Sydenhams Road, Kannappar Thidal,
Periyamet, Cheenai 600 003.

2.Deputy Commissioner (Revenue and Finance),
Greater Chennai Corporation,
Ripon Buildings,
Sydenhams Road, Kannappar Thidal,
Periyamet, Cheenai 600 003.

3.The Assistant Revenue Officer,
Zone Office-IX,
Greater Chennai Corporation,
No.1 Lake Avenue 4th Cross Street,
Nungambakkam – 600 034.

... Respondents in W.P. No.20328 of 2019

Prayer in W.P. No.2377 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorari to call for the records pertaining to the impugned order dated 12.11.2020 passed by the fourth and fifth respondents pertaining to the increase of Water and Sewerage Tax and to quash the same for the proeprty situated at 4 (22) Vallaba Agraharam, Chepauk, Chennai – 600 005.

Prayer in W.P. No.20328 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorari to call for the records pertaining to the impugned order of the final assessment order No.10/19-20/147364 dated 16.04.2019 issued by the first and third respondents and the speaking order Z.O.IX.RDC.No.R1/Dn-114/-/2019 dated 21.06.2019 issued by the first and third respondents as unconsitutional, void, illegal and arbitrary pertaining to the increase of property tax for the property situated at New No.4 Old No.22 Vallaba Agraharam, Chepauk, Chennai – 600 005.

For Petitioner : Mr.David Thyagaraj in both WPs
For Respondents : Mr.P.K.Paneer Selvam,
Standing Counsel
in W.P. No.2377 of 2021
Mrs.Karthika Ashok,
Standing Counsel
in W.P. No.20328 of 2019

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COMMON ORDER

Heard Mr.David Thyagarj, learned counsel for the petitioner, Mr.P.K.Paneer Selvam, learned Standing Counsel for Metro Water and Sewerage Board and Mrs.Karthika Ashok, learned Standing Counsel for the Chennai Corporation.

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2. These writ petitions challenge demands of property tax made on hotels. According to the learned counsel appearing for the Chennai Corporation, the basis of assessment of hotels is set out in G.O.Ms.No.856 dated 19.04.1972. This is extracted for sake of completion.

GOVERNMENT OF TAMILNADU

Abstract

TAX- Property Tax - Madras Corporation Levy of Property Tax on Hotels and Lodged In Madras City - Proposal Agreed.

RURAL DEVELOPMENT AND LOCAL ADMINISTRATION DEPEARTMENT

G.O. Ms.No.856 Dated the 19th April 1972

READ

1. From the honorary Secretary and treasurer, South India Hotels and Restaurants Association, Madras, representation dated 23.3.71, 10.4.71, 28.9.71 and 06.12.71. 2. From the Commissioner, Corporation of Madras, Letter No. 1 dated 29.3.71

D.O. letter No.R.D.C. No 80641 \ 7101, dated 09.11.1971

D.O letter No.R.D.C, No 80641 \ 71 dated 19.11.1971

D.O. letter No.R.D.C. No 80641 \ 7101, dated 15.12.1971

D.O. letter No.R.D.C. No 347 \ 7101, dated 10.08.1972

3.From the President, Madras City lodge Owners Association,representation dated 27.12.1971

ORDER:

The Secretary and Treasurer, South India Hotels and the restaurants Association, Madras has represented that the property taxes in respect of the hotels and restaurants in the Madras City have been abnormally increased and that the increase has been done arbitrarily. He has further represented that the expenses, invoked in maintaining a hotel together with the amenities and services rendered should be taken into account while an individual hotel is assessed to property tax and that the salaries of staff, provident fund, washing and laundry, maintenance of furnitures and sanitation should have first claim over the room revenue. The President of the Madras City Lodge Owners Association Madras has also represented that the criteria adopted in arriving at the rates by the Corporation of Madras in respect of the Hotels and lodging houses is not in conformity with the principle and that the entire issue required retaining and revision.

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2.The said representations were referred to the Commissioner, Corporation of Madras. The Commissioner, Corporation of Madras has the following classification of hotels and lodges and the procedure of assessment of the said hotels and lodges to property tax:-

1.Posh Hotels Lodge Houses

Annual value to be assessed by taking rental value for lodging portions at 10% of the gross Income that may be realised if all the rooms are occupied throughout the year plus reasonable letting value for other portions like restaurants shops, etc.

2. A Class Hotels and Lodging Houses

Annual value to be assessed by taking rental value for lodging portions at 10% of the gross Income that may be realised if all the rooms are occupled throughout the year plus reasonable letting value for other portions like restaurants shops, etc.

2. 'B' Class Hotels and Lodging Houses

Annual value to be assessed by taking rental value for gross Income that may be raised if all rooms are occupied through the year plus reasonable letting value for other portions like restaurant shops, etc.

The Commissioner has however started that wherever the standing valuation is higher the same may be allowed to continue.

3. The Government after careful examination agree with the suggestion made by the Government Corporation of Madras, for assessing the Hotels and lodges to property tax can the lines indicated in above. The Commissioner Corporation of Madras is requested the approval of the Corporation Council of Madras before

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implemented revised, procedure suggested by him and agreed to by the Government.

4. The receipt of this order may be acknowledged.
(By Order of the Governor)
(By order of the Governor)

To the Commissioner, Corporation of Madras, through Mayor.
The Commissioner Corporation of Madras Direct Copy to the Examiner of Local Fund Accounts, Madras

True Copy/Forwarded/By order

Superintendent R.D'

3. That apart, she would state that the petitioner had, in fact, approached the authorities with a request for fresh assessment in line with the principles of natural justice and that the said request will be taken into account and acted upon shortly. She also fairly submits that the impugned demands of property tax have not been preceded by pre-assessment proposals or any notices issued to the petitioner calling for response. In such circumstances, the demands have no validity whatsoever and are quashed.

4. Let the proceedings for assessment be initiated afresh and notices issued to the petitioner, upon receipt of which, they shall appear with all materials in support of their valuation/liability to tax and after hearing the petitioner, let orders of assessment be passed de novo as expeditiously as possible. Till such time, it is made clear that the petitioner shall continue to remit tax at the rates presently in force regularly. The demands of water tax would hinge on the annual value determined by the Corporation and is 7% of the annual value so determined.

5. These writ petitions are disposed and connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To
1. Metro Water and Sewerage Board,

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6. The Commissioner,
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7. Deputy Commissioner (Revenue and Finance),
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8. The Assistant Revenue Officer,
Zone Office-IX,
Greater Chennai Corporation,
No.1 Lake Avenue 4th Cross Street,
Nungambakkam - 600 034.

+cc to M/s.David tyagaraj, Advocate Sr.No.22946,22947
+cc to M/s.Karthikaa Ashok, Advocate Sr.No.22713

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