IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02-09-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.17336 of 2009
And
MP Nos.1 and 2 of 2009

1. Md. Shoukath
2. Hashmath
3. Ms.Azra
4. Md. Raffath
5. Ms.Durdana ..Petitioners

vs.

1. The Corporation of Chennai,
   Represented by its Commissioner,
   Ripon Buildings,
   Chennai-600 003.

2. The Assistant Revenue Officer Zone-VI,
   Corporation of Chennai,
   No.2, Dr. Besant Road,
   Ice House,
   Chennai.

3. State Bank of India,
   Represented by its Assistant General Manager,
   787, Anna Salai,
   Chennai-2.

4. The Jammu and Kashmir Bank Ltd.,
   Represented by its Chief Manager,
   787, Anna Salai,
   Chennai-2. ..Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the second respondent culminating in the two 'Notice to Occupiers' dated 01.07.2009 issued to the second and third respondent in respect of the building at No.787, Anna Salai, Chennai-600 002 and quash the same.

For Petitioners : Mr.V.Shanmugham

For Respondents-1 and 2 : Ms.Karthikaa Ashok,
Senior Standing Counsel.

For Respondents-3 and 4 : No Appearance

O R D E R

The writ on hand is filed questioning the validity of the notice issued to the occupiers of the building under Rule 29, Schedule IV of the Chennai City Municipal Act IV of 1919.

2. The petitioners are the absolute owners of the property consisting of a building at Door No.787, Anna Salai, Chennai-600 002.

3. The petitioners state that a building was assessed to property tax and they were paying the same. However, it is stated that the property tax was paid whenever it is demanded and there was no subsequent demand raised by the respondent-Corporation and for that period, the petitioners have not paid their property tax.

4. The respondents demanded enhanced property tax at the rate of Rs.1,28,516.60 per half year for the period 2/1991-1992 to 1/1998-1999.

5. The petitioners filed WP No.17902 of 1998 and the said writ petition was disposed of on 27.11.2006 with the direction to pay the property tax for the period 2/1991-1992 and 1/1998-1999. The petitioners were provided with an opportunity to submit their objections and accordingly the abovesaid writ petition was disposed of.

6. Meanwhile, the petitioners remitted the tax amount of Rs.2,57,074/- to the second respondent.

7. It is not in dispute that the property belongs to the petitioners were assessed to property tax and in the earlier writ petition, the petitioners were provided with an opportunity to submit their objections, if any for further consideration by the Authorities Competent. That being the position, the impugned notice was issued to the occupiers, who were the tenants during the relevant point of time and the said occupiers' notice is under challenge in the present writ petition.

8. This Court is of the considered opinion that under the provisions of the Chennai City Municipal Corporation Act, 1919, once the property is assessed, the owners are liable to

pay tax in accordance with the provisions of the Act. If at all they are aggrieved from and out of the assessment for determination of tax, they are bound to prefer an appeal before the Appellate Authority or before the Appellate Taxation Committee under the provisions of the Act.

9. However, in the present case, the initial assessment was self-assessment and therefore, the question of preferring an appeal would not arise at all. Thus, the petitioners are bound to pay the property tax as per the self-assessment made and in respect of the revised assessment now made by the Corporation, the petitioners are at liberty to file their objections, if any, before the Competent Authority.

10. In view of the efflux of time and the present writ petition was filed in the year 2009 and pending for about 12 years, this Court directed the respondent-Corporation to conduct a fresh inspection and accordingly, passed a revised assessment order, enabling the petitioners to proceed further in accordance with the provisions of the Act.

11. Pursuant to the interim order passed by this Court, the respondent-Corporation conducted an inspection in the premises of the petitioners and submitted an Inspection Report and the contentions in the said Inspection Report are extracted as under:-

"Inspection Report
Ref:-W.P.No.17336 of 2009
- - -

As per the direction of the Hon'ble High Court in W.P.No.17336 of 2009, an inspection was carried on 25.08.2021 at 11.00 A.M., at Door No.53 (Old No.787), Anna Salai, Chennai-600 002 bearing property tax assessment Bill No.05-063-00379-000 (Old Bill No.06-082-0053-000 before delimitation of Chennai Corporation) to finalize the extent and usage of the building.

One Tr.Dhilipan represented from the petitioners side and the measurements were taken in his presence along with the Assessor and Tax Collector Tvl.G.Mathanagopal and Shanmugam respectively.

Accordingly, the measurements are tabulated below:-

Floor	Built up Area in Sq.ft.	Usage	Occupancy	Type of Construction
Ground	9418	Non Residential	Owner	Permanent
First	9418	Non Residential	Tenanted	Permanent
Second	9418	Non Residential	Tenanted	Permanent

Floor	Built up Area in Sq.ft.	Usage	Occupancy	Type of Construction
Third	9418	Non Residential	Tenanted	Permanent
Head Room	264	Non Residential	Tenanted	Semi Permanent
Lift Room	126	Non Residential	Tenanted	Permanent

1) The Annual Value for the above area is fixed at Rs.37,35,544/-.

2) The Half Yearly Tax is fixed at Rs.4,63,210/-.

3) The revised tax is fixed w.e.f.I/2020-2021 under Section 107 of the C.C.M.C. Act, 1919.

4) Earlier the petitioners half yearly property tax was fixed at Rs.1,28,537/- w.e.f. I/1993-1994 during General Survey based on the returns filed by the Assessee @ Rs.6/- per sq.ft.

5) Due to subsequent General Revision Survey, the property tax was fixed at Rs.2,54,463/- w.e.f. II/1998-1999 based on the returns filed by the Assessee @ Rs.9/- per sq.ft.

6) The petitioners were called for inquiry for finalizing the property tax issue vide this office letters dated 09.01.2017 and 28.04.2017, but the petitioners failed to appear for hearing.

7) Since, no revision occurred for the past 20 years, a survey was conducted throughout GCC limits for detecting any escape/under assessment to improve revenue collection. Accordingly, the petitioners property was marked for under assessment.

8) As per the direction of the Hon'ble High Court and in order to regularise the under assessment, the Revised Assessment Notice No.7/21-22/476596, dated 26.08.2021 is issued @ the rate of Rs.9/- per sq. ft. (GRS rate held during 1998). The manual calculation is also annexed along with Revision Assessment Notice.

9) The Demand, Collection, Balance for the petitioners property tax are tabulated below:-

Period	Demand	Collection	Balance
I/1993-94 to I/1998-99 (General Survey)	16,65,759	14,19,007	2,46,752
II/1998-99 to II/2019-20 (General Revision Survey)	1,09,99,401	20,00,000	89,99,401
I/2020-21 to I/2021-22 (On inspection)	13,89,630	NIL	13,89,630
Simple Interest (Tamil Nadu Act 37 of 2018)			66,122

Period	Demand	Collection	Balance
Total Due			1,07,01,905

The outstanding arrear demand to be paid by the petitioners is Rupees One Crore Seven Lakh One Thousand Nine Hundred and Five only.

10. If any objections on the Revised Provisional Assessment Notice dated 26.08.2021 pertaining to the period from I/2020-21, the petitioners may place their objection in accordance with Rule 5, 6 Part I-A of Schedule IV - Taxation Rules under Section 138 of the C.C.M.C. Act, 1919."

12. Revised assessment was made and Notice No.7 was issued to the petitioners and in the said notice itself, it is clearly stated that on receipt of the notice, the petitioners are at liberty to file any objections, within a period of 15 days to the concerned Regional Deputy Commissioner, Greater Chennai Corporation. Therefore, as per the revised assessment, if any grievance exists, the petitioners are at liberty to file their objections to the Competent Authority as per the notice dated 26.08.2021. However, the arrears of property tax determined based on the self-assessment to be paid by the petitioners without causing any undue delay.

13. Once the property is assessed to tax, then the owners are liable to pay the same and even in case of any grievance, they are bound to follow the procedures by preferring an appeal in accordance with the Act. Prolonging and protracting the issues in the matter of payment of property tax is not preferable as the same would cause unnecessary burden even on the Assessees/owners of the property. Citizens are bound to realise their statutory duties and by prolonging the issues, they cannot escape from the payment of property tax, otherwise they are liable to pay such tax in accordance with law.

14. This being the principles to be followed, the petitioners have not established any acceptable ground for the purpose of quashing the notice issued to the occupiers in proceedings dated 01.07.2009.

15. Accordingly, following orders are passed:-

(1) The relief, as such, sought for by the petitioners in the present writ petition stands rejected.

(2) The petitioners are directed to pay the arrears of property tax for the period from the assessment years 1993-1994 to 2019-2020, within a period of three months from the date of receipt of a copy of this order.

(3) As far as the revised assessment is concerned, the petitioners are directed to pay the demanded tax and file the objections, if any, for the purpose of redressing their grievances.

(4) In the event of failure on the part of the petitioners in making the tax payment, the respondents are directed to initiate immediate steps to attach the property and recover the tax arrears by following the procedures as contemplated under the provisions of the Act.

16. With the above directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)
//True Copy//

Sub Assistant Registrar

Svn

To

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

2. The Assistant Revenue Officer Zone-VI,
   Corporation of Chennai,
   No.2, Dr. Besant Road,
   Ice House,
   Chennai.

3. The Assistant General Manager,
   State Bank of India,
   787, Anna Salai,
   Chennai-2.

4. The Chief Manager,
   Jammu and Kashmir Bank Ltd.,
   787, Anna Salai,
   Chennai-2.

5. The Regional Deputy Commissioner,
   Greater Chennai Corporation,
   Chennai

+1CC to M/s.Karthikaa Ashok, Advocate, Sr.No.44195

WP 17336 of 2009

SRA (CO)
K.RK. (24.09.2021)