



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

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THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.30352 of 2015
and
M.P.Nos.1 & 2 of 2015

M/s.Kurios Finvest LLP,
Rep., by its Director,
Renuka Kumar,
No.7, College Lane,
Chennai-600 006. .. Petitioner
[Cause title amended vide order dated 31.08.2020 in
WMP No.12970 of 2020 in WP No.30352 of 2015]

-vs-

The Ambattur Municipality,
Rep., by its Commissioner,
Ambattur, Chennai. .. Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the respondent contained in its impugned order dated 20.10.2010 bearing Na.Ka.No.735/09/A2 and quash the same along with all consequential orders passed therefrom, as arbitrary, unjust and illegal and to therefore direct the respondent or any of its agents, to drop any proceedings initiated against the petitioner towards recovery of property tax under the Tamil Nadu District Municipalities Act, 1920 for the immovable property located at Plot No.SP 24 (South Phase), Ambattur Industrial Estate, Chennai-600 058.

For Petitioner : Mr.Suhrith Parthasarathy
For Respondent : Ms.Karthikaa Ashok,
Senior Standing Counsel

ORDER

The property tax assessment order passed by the respondent in proceedings dated 20.10.2010, is under challenge in the present writ petition.

2.The learned counsel for the petitioner made a submission



that the assessment of property tax, by the respondent, is not proper and it is contended that the construction of the building was made much later than that of the date of assessment considered by the respondent. The petitioner has stated that no opportunity of hearing was given to them to defend their case in the manner known to law. The grounds raised through representations were not considered. Thus, the petitioner is constrained to move the present writ petition.

3.The learned counsel for the respondent-Corporation made a submission that even the petitioner made an application to the Ambattur Municipality in the year 2008 for assessment of property tax to the building belongs to the petitioner. Based on the application and by following the procedures, the assessments were made and the date of property tax was also determined by the competent authority and an order was passed, which is impugned in this writ petition.

4.The order impugned is the final property tax assessment order, which is an appealable order and thus, the petitioner has to exhaust the appellate remedy, if at all any grievance exists.

5.This Court is of the considered opinion that now the Ambattur Municipality is falling under the territorial jurisdiction of the Chennai Corporation and it is contended that under the provisions of Chennai City Municipal Corporation Act, 1919, the appeal is to be preferred before the Appellate Taxation Tribunal and the petitioner has to exhaust the statutory remedy.

6.This Court is of the considered opinion that certain disputed facts regarding the date of assessment of property tax, assessment of building as well as determination as per the procedures contemplated are to be adjudicated with reference to the documents and evidences available. Such an adjudication cannot be undertaken by this Court in a writ proceedings under Article 226 of the Constitution of India. Thus, the aggrieved person has to approach the appellate authority, which is the final fact finding authority for the purpose of adjudication of the grounds. Even with reference to the legal grounds, the petitioner may raise the same before the Appellate Taxation Tribunal, which is competent to decide the issues both factually as well as based on legal grounds.

7.Practice of filing writ petitions before exhausting the statutory appellate remedy cannot be encouraged by the High Court ordinarily. Many such writ petitions are filed with an idea to avoid pre-deposits contemplated under the statute for entertaining an appeal by the appellate authority. Otherwise, such writ petitions are filed on the ground that preferring an



appeal is time consuming. However, these grounds, if at all, raised, cannot be considered, as the appellate remedy contemplated under the statute has a definite legislative intention and is important for the purpose of final fact finding. In the present case, the appeal to the Appellate Taxation Tribunal is undoubtedly efficacious and the Tribunal is an expert forum and thus, the parties to the dispute are bound to adjudicate the disputed facts and the question of law before the Appellate Taxation Tribunal. The mixed question of law and fact is to be adjudicated before the Tribunal and the final fact finding in respect of the disputes are of paramount importance for the purpose of exercising the power of judicial review by the High Court under Article 226 of the Constitution of India.

8. In view of the facts and circumstances, the petitioner is at liberty to prefer an appeal before the Appellate Taxation Tribunal within a period of four weeks from the date of receipt of a copy of this order. In the event of preferring any such appeal, the Tribunal shall condone the delay, if any, and entertain and dispose of the same as expeditiously as possible on merits and in accordance with law by affording opportunity to the petitioner. The Tribunal is empowered to consider both the facts as well as the law with reference to the assessment of property tax and the petitioner is at liberty to raise all the grounds raised in the present writ petition for the purpose of adjudication of the issues and for redressal.

With the above observations, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

To

1. The Commissioner,
The Ambattur Municipality,
Ambattur, Chennai.
2. The Appellate Taxation Tribunal,
Chennai.

+1cc to Ms.Karthikaa Ashok,, Advocate, S.R.No.31632

+2cc to Mr.Arun Karthik Mohan, Advocate, S.R.No.23713, 31549

W.P.No.30352 of 2015

RLD(CO)
HS(02/08/2021)