IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.02.2021
CORAM
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. Nos. 6853 & 6854 of 2018
and
W.M.P.Nos. 8486 & 8487 of 2018

Adyar Gate Hotel
rep., by its Director : Petitioner in WP.No.6853/2018

Adyar Gate Hotel Limited,
(Wrongly described as Adayar
Galne Hotel Estar Hotel),
Represented by its Director,
No.132, T.T.K. Road,
Chennai - 600 018. : Petitioner in WP.No.6854/2018

Vs

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

2. The Assistant Revenue Officer,
Corporation of Chennai Zone IX,
Chennai.

3. The Zonal Officer,
Zone IX, Greater Chennai Corporation,
No.1, Lake Area 4th Cross Street,
Nungambakkam,
Chennai - 600 034. ... Respondents in both W.Ps

Prayer in both W.Ps: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the Demand Notice in Z.O.IX.R.D.C.No.R1/nil/2018, dated nil.03.2018 issued by the Third Respondent herein respect of the property of petitioner "Crowne Plaza, Adyar Gate" and quash the same and to forebear the respondents from taking any coercive steps.

For Petitioner : Mr.S.R.Raghunathan
(In both W.Ps)

For Respondents : Ms.Karthikaa Ashok
(In both W.Ps) Standing Counsel

COMMON ORDER

The Petitioner had filed the present writ petition for issuance of a writ of mandamus to call for the the records of the impugned demand notice dated nil.03.2018 bearing

Z.O.IX.R.D.C.No.R1/nil/2018 issued by the 3rd respondent in respect of the property of the petitioner titled as "Crowne Plaza, Adyar Gate" and quash the same.

2. During the interregnum, the petitioner had challenged the assessment made by the Corporation of Chennai. The Corporation of Chennai has since passed an order dated 28.12.2020. As per the said order the annual value of the property has been fixed at Rs.3,31,09,275/-. The half yearly property tax to be paid by the petitioner with effect from 1st half of 2010-2011 has been determined as Rs.41,05,550/-. At the time of admission of the writ petition by an order dated 26.03.2018, the petitioner was directed to pay a sum of Rs.10 Crores as security. The said order was later modified by asking the petitioner to deposit a sum of Rs.5 Crores and to furnish a bank guarantee for the balance amount of Rs.5 Crores. Now in view of the further development, it is stated that the amount to be paid by the petitioner up to date comes to Rs.9,03,22,100/- only. According to the petitioner, it has remitted an amount of Rs.12,07,76,528/- as property tax paid by this writ petitioner in terms of order.

3. It is submitted that since the petitioner has till date paid a sum of Rs.12,07,76,523/- as against a tax dues of Rs.9,03,22,100/-, there is an excess payment of Rs.3,04,54,493/- which is to be refunded. The learned counsel for the petitioner submits that, the petitioner is entitled for refund of the aforesaid amount or in the alternative, the respondents should be directed to pay proportionate interest to the petitioner after adjustment in the aforesaid amount for the successive period in terms of the assessment made by the Commissioner of Greater Chennai Corporation vide order dated 28.12.2020 bearing Ref.No.Z.O.IX/ARO/C.No.000951/2020.

4. The learned counsel for the respondents on the other hand submits that under the provision of the Chennai City Municipal Corporation Act, 1919, the Corporation of Chennai can neither levy interest for delayed collection of property nor pay interest towards excess collection of property tax and therefore the plea of the petitioner cannot be entertained.

5. She further submits that the scope of writ petition is limited to quash the demand notice. She submits that the remedy sought for in the present writ petition has worked out in the light of the subsequent development and therefore it is for the petitioner to work out the remedy in the manner known to law.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the respondents.

7. The amount paid by the petitioner was in terms of the interim order that came to be passed by this Court on 26.03.2018 as modified by order dated 24.04.2018. The amounts

paid by the petitioner is only a deposit and therefore it is required to be refunded back to the petitioner together with the normal bank rate.

8. Therefore, the petitioner is directed to file a memo of calculation for refund the excess amount of Rs.3,04,54,493/- together with interest at normal bank rate within a period of four weeks from the date of receipt of a copy of this order. On such memo being filed, the respondents are directed to refund the amount together with interest within a period of four weeks thereafter. While, ordering such refund, liberty is given to the respondents to deduct the amounts that are due from the petitioner for the next half.

9. These Writ Petitions stand disposed of in accordance with law. No costs. Consequently, connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

arb

To

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

2. The Assistant Revenue Officer,
Corporation of Chennai Zone IX,
Chennai.

3. The Zonal Officer,
Zone IX, Greater Chennai Corporation,
No.1, Lake Area 4th Cross Street,
Nungambakkam,
Chennai - 600 034.

+1cc to M/s.Karthikaa Ashok, Advocate, S.R.No.10483.
+2cc to Mr.S.R.Raghunathan, Advocate, S.R.No.10039.

W.P. Nos. 6853 & 6854 of 2018
and
W.M.P.Nos. 8486 & 8487 of 2018

SR-II(CO)
CSR 30.03.2021