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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.8001 of 2020
&
W.M.P.No.9449 of 2020
(Through Video Conferencing)

M/s. Beverly Hotel (P) Ltd.,
Rep.by its Managing Director,
Mr.A.Radhakrishnan,
No.17(7) Rajarathnam Street,
Kilpauk, Chennai - 600 010. ... Petitioner

Vs.

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

2. Managing Director
Chennai Metropolitan
Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet,
Chennai - 600 002. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent pertaining to the impugned order in Notice 7/17-18/41725 dated 17.11.2017 in property tax Bill No. 08-103-07090-000 and quash the same remitting this matter back to the first respondent for reassessing the petitioner's building as per basic tax rate of that area considering the plinth area of the building, without considering income of petitioner as ordered by Honourable High Court of Judicature at Madras in W.P.No.14347 and 14940 of 1998 dated 14.10.1998 and as requested in objection letter of the petitioner dated 03.02.2020.

For Petitioner : Mr.P.V.Pachiyappan
For Respondent :
For R1 : Ms.S.Vaitheeswari
Standing Counsel

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ORDER

The petitioner has challenged the impugned assessment order dated 17.11.2017 demanding property tax of Rs.7,22,620/- per half year with effect from II/2015-16.

2. It is the case of the petitioner during the first Half Year 02/2000-2001, the property tax of the petitioner's hotel building was assessed as Rs.98,784/-, which the petitioner has been paying.

3. It is further submitted by the petitioner that revision of property of tax under G.O.Ms.Nos.73 and 76 of 2018, cannot exceed by 700 per cent as has been demanded in the impugned demand notice revising the tax unilaterally.

4. Learned counsel for the petitioner further submits that neither the income of the petitioner nor the occupancy of the rooms run by the petitioner are relevant fact for determination of the property tax under the provisions of the Chennai City Municipal Corporation Act, 1919. It is therefore, submitted that demand of the property tax was at Rs.7,22,620/- that was liable to be quashed. It is further submitted that G.O.Ms.Nos. 73 and 76 dated 26.07.2018 are even kept in abeyance in terms of the G.O.Ms.No.150 dated 19.11.2019.

5. Opposing the prayer, learned counsel for the respondents submits that submission of the petitioner is without any merits. It is submitted that the petitioner has an alternate remedy before the Taxation Appellate Tribunal, which is more efficacious.

6. Heard learned counsel for the petitioner and heard learned counsel for the respondents. I have perused the impugned re-assessment and the order of this Court dated 14.10.1998 rendered in W.P.Nos. 14347 and 14940 of 1998 and the provisions of the aforesaid Act. The provisions do not contemplate levy of tax based on the income of the owner of a building. A specific method has been prescribed under the aforesaid Act for determination of assessment of tax which ought to be followed. Which has not been followed.

7.Though G.O.Ms.Nos. 73 and 76 dated 26.07.2018 were issued and certain guidelines were issued for revising the assessment. However, they have been withdrawn by G.O.Ms.No.150 dated 19.11.2019.

8. Since the order does not spell-out the manner in which the property tax has been increased by 700 per cent to Rs.7,22,620/-, the impugned order is liable to be quashed as

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arbitrary and the case is to be remitted back to the respondent (Assistant Revenue Officer) under the jurisdiction of the first and second respondents respectively to pass afresh assessment order strictly. In accordance with Section 99 & 100 of the aforesaid Act.

9. Accordingly, the impugned order is quashed and the case is remitted back to the aforesaid officer. The petitioner is also at liberty to file reply if any. If required proper show cause notice may be issued to the petitioner within a period of 30 days from the date of receipt of copy of this order. The petitioner may be given 30 days time to reply to the notice complying with the principles of natural justice and in accordance with law.

10. The entire exercise shall be carried out by the respondents along with the Assessing Officer within a period of 90 days from the date of receipt of a copy of this order.

11. The writ petition stands allowed with the above observations. There shall be no order as to costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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

2. The Managing Director
Chennai Metropolitan
Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002.

+1cc to Ms.S.Vaitheeswari, Advocate, S.R.No.66255
+2cc to Mr.John bosco, Advocate, S.R.No.65537

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GJ(CO)
CT 19/01/2022

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