IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.12932 of 2020
&
W.M.P.No.15995 of 2020

(Through Video Conferencing)

P.S.Sanaullah ...Petitioner

Vs

1. The Revenue Commissioner, Zone-1-x,
Rippon Building,
Chennai-600 003.

2. The Assistant Revenue Officer, Zone-1-x,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai- 600 003.

3. The Revenue Department, Zone-5,
Chennai Corporation,
No.62, Basin Bridge Road,
Chennai-600 079. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records to the impugned record pertaining to the impugned notice GCC R.D property Tax-Notice for the currest Demand and Arrears Demand dated NIL Zone, 05, Ward-05 and bearing Bill No.01506 passed the 3rd respondent and quash the same and subsequently direct the 3rd respondent to restructure the property tax according to the provisions of Chennai City Municipal Corporation Act 1919.

For Petitioner : M/s.Nathan Associates

For Respondents : Mrs.P.T.Rama Devi
Standing Counsel
Mr.T.Chezhiyan,
Additional Govt. Pleader
(HR & CE)

ORDER

This is the third round of litigation by the petitioner. Earlier, the petitioner had challenged the notice issued by the respondent in W.P.No.24776 of 2017. The said writ petition was disposed by an order dated 13.07.2017 with the following observations:-

> 3.Without adhering to the directions issued, the impugned demand has been raised. Therefore, while entertaining the writ petition, this Court passed the following interim order:
>
> "Heard the learned counsel for the petitioner, Mrs.Karthika Ashok, learned Standing Counsel accepts notice for the respondents.
>
> 2.On a perusal of the impugned demand, it is prima facie clear that the respondents have not followed the directions issued by this Court in W.P.Nos.1968 of 2011 and 28160 of 2016 dated 01.09.2016. There is no indication that the petitioner's building was inspected as per the directions issued by this Court. If inspection had not been completed, it would amount to committing contempt of the order passed by this Court. Furthermore, this Court granted liberty to the respondents to initiate fresh proceedings only from 1/2006-07. A specific direction was also issued to the respondents as to how fresh proceedings should be initiated. This direction has also been thoroughly violated by the respondents. Hence, the petitioner has made out a prima facie case for grant of interim order.
>
> 3.Accordingly, there will be an order of interim stay and the respondents are directed to file counter within four weeks. It is needless to state that the order of interim stay will not operate in respect of admitted tax liability at the rate of Rs.19,000/- per half year as per the earlier orders. This amount shall be paid by the petitioner without any arrears within a period of three weeks from the date of receipt of a copy of this order. Post after four weeks.
>
> 4.M/s.Karthikaa Ashok, learned Standing Counsel for the respondent on written instructions from the second respondent submitted that the demand notice served by the Tax Collector stands

withdrawn and the petitioner has been assessed to half yearly property tax at the rate of Rs.19,000/- as ordered by this Court.

5.In the light of the same, the writ petition is allowed and the impugned demand notice is quashed. No costs. Consequently, the connected miscellaneous petition is also closed."

2.Pursuant to the aforesaid order, the petitioner was called upon to pay the arrears of tax during the period of second half of 2017-18 which has been paid by the petitioner. The respondents have not issued a notice but have straight away demanded a sum of Rs.1,65,495/- as property tax from the petitioner before enhancing the property tax from Rs.19,000/- and was declared earlier. It is submitted that the respondents cannot enhance the property tax by 200% without following due process of law. It is further submitted that the exercise carried out by the respondent is in violation of provisions of Chennai City Municipal Corporation Act, 1919.

3.The learned counsel for the respondent on the other hand would submit that the property tax was fixed at Rs.19,000/- by the Taxation Appellate Tribunal. Pursuant to an inspection carried out in presence of the petitioner on 27.10.2020 and thus the property tax was revised and therefore the impugned demand notice has been issued. It is submitted that the petitioner is aware of the tax liability as the rate of fixed under the Act.

4.It is further submitted that the Government had ordered for general division of property tax with effect from first half of 2018-19 vide G.O.Ms.No.73, Municipal Administration and Water Supply (MA.IV) Department dated 19.07.2018.

5.Heard the learned counsel for the petitioner and the learned counsel for the respondents.

6.The above mentioned Government order have been suspended by G.O.Ms.No.150 Municipal Administration and Water Supply (Election) Department dated 12.11.2007. The fact remains that the impugned demand notice has been issued to the petitioner without calling upon the petitioner to show cause as to why the property tax and annual value of the property should not be enhanced and redetermined.

7.Considering the fact that the order has been passed in violation of Schedule IV part 1(a) of the aforesaid Act, the impugned demand notice is quashed and the case is remitted back to the respondent to pass a speaking order after giving liberty to the petitioner show cause as to why the annual value of the property should be enhanced and why the property tax should not be enhanced. This exercise shall be carried out by the respondent within a period of three months from the date of receipt of a copy of this order.

8.Accordingly, this writ petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

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To

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   Rippon Building,
   Chennai-600 003.

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   No.61, Basin Bridge Road,
   Chennai- 600 003.

3. The Revenue Department, Zone-5,
   Chennai Corporation,
   No.62, Basin Bridge Road,
   Chennai-600 079.

+1cc to Mrs.P.T.Rama Devi, Advocate, S.R.No.69337
+1cc to M/s.Nathan Associates, Advocate, S.R.No.69464

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&
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NSK 20/01/2022