IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.13913 of 2020 and
WMP.No.17295 of 2020

M.O.H.Automobiles,
Rep. By its partner M.O.H. Iqbal,
No.14, Giriyappa Road,
T.Nagar, Chennai-17. … Petitioner

Vs.

1. The Commissioner,
   Chennai Corporation,
   Chennai.

2. The Assistant Revenue Officer, IX Zone,
   Revenue Department,
   Greater Chennai Corporation,
   Chennai.

3. Raseena

4. H.U.Baheer ... Respondents
   (R3 & R4 suo-motu impleaded vide order dated 07.01.2021 made in WP.No.13913/2020)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari, to call for the records relating to the impugned Notice 10: final assessment dated 12.3.2020 passed by the 2nd respondent r/w the consequential impugned distraint notice no.09-117-03059 dated 17.8.2020 passed by the 2nd respondent and quash the same.

For Petitioner : Mr.R.Thiagarajan

For Respondents : Mrs.P.T.Ramadevi, (for R1 & R2)
Standing Counsel

No Appearance (for R3 & R4)

O R D E R

Heard Mr.R.Thiagarajan, learned counsel for the petitioner and Mrs.P.T.Ramadevi, learned Standing Counsel for R1 and R2.

2.The challenge is to a Final Assessment Notice-10 calling for payment of property tax under the provisions of the Chennai City Municipal Corporation Act, 1919 (in short 'Act'). The petitioner is a firm and challenges the assessment made as well as the distraint notice for non-payment of property tax for the property situated at 14, New No.33, Dr.Giriyappa Road, T.Nagar, Chennai.

3. The petitioner is admittedly a lessee, who has sub-leased the property to another entity. It appears that the half yearly tax was fixed at a sum of Rs.44,260/- originally. The petitioner had filed a representation bringing to the notice of the respondents certain discrepancies in the property tax assessed, upon consideration of which, the revised half yearly tax was fixed at a sum of Rs.22,510/-. While this is so, the impugned final assessment dated 12.03.2020 has been issued, wherein, the amount has again be increased from Rs.22,510/- to Rs.40,515/-. There is no basis for the enhancement and no pre-assessment notice or proposal has been issued to the petitioner prior to such enhancement.

4. The counter merely states that general survey was taken for the properties with effect from the first half of 2019, as per an order of the Division Bench of the Madras High Court and thereafter revision notices were issued.

5. Though the counter refers to a notice dated 24.09.2020 calling for remittance of arrears of property tax, it is incumbent upon the respondents to have furnished the basis for change in either the annual valuation or the half yearly tax assessed and call for objections prior to arriving at a proper determination of the half yearly tax.

6. The impugned final assessment notice dated 12.03.2020 and distraint order dated 17.08.2020 are thus set aside. The respondents will furnish to the petitioner, the basis of arriving at the annual rental value as well as the half yearly tax, solicit objections from the petitioner in this regard, if any, and thereafter make an assessment of property tax.

7. It is the case of the petitioner that he is only a lessee of the property and any such demand of property tax should be made qua the owner. The owners/R3 & R4 were also impleaded suo motu by this Court and notice was ordered. Though

service is complete, the proper names of the owners are not printed in the cause list.

8. Be that as it may, the provisions of Section 129(D) of the Act state that the levy of property tax shall be either upon the owner or the person in occupation, and the latter shall be deemed to be equally responsible for satisfying a valid demand of property tax. Thus any demand made upon the petitioner as lessee is valid, subject to proper procedure being followed in this regard.

9. With these observations, this writ petition stands disposed. Connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

VS

To

1. The Commissioner,
   Chennai Corporation,
   Chennai.

2. The Assistant Revenue Officer, IX Zone,
   Revenue Department,
   Greater Chennai Corporation,
   Chennai.

+1cc to MS.P.T RAMADEVI, Advocate, S.R.No. 24599

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VBM(CO)

CT(/07/2021)