

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

CORAM

THE HON'BLE MR.JUSTICE B. PUGALENDHI

WP No.14595 of 2020
and WMP.Nos.1691 of 2021 and
18096 & 18198 of 2020

M/s.Aruna Theatres & Enterprises Pvt. Limited
Rep.by its Director
Mr.K.Shanmugasundaram,
No.3, Pillar Road, Ashok Nagar,
Chennai 600 083

...Petitioner

Vs.

1. The Commissioner,
Corporation of Greater Chennai
Rippon Buildings,
Chennai 600 003.
2. Revenue Officer
Corporation of Greater Chennai
Rippon Buildings,
Chennai 600 003.
3. Zonal Assistant Revenue Officer
Zone No.10,
Corporation of Greater Chennai
Chennai 600 024.
4. Managing Director and Chairman
Chennai Metropolitan Water Supply and Sewerage Board
1, Pumping Station Road,
Chintadripet, Chennai 600 002.
5. Senior Accounts Officer
New Area 10 Office
No.9, Muthukrishnan street,
Chennai 600 017.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records pertaining to the issuance of Bill No.10-132-03738; 10-132-03737 dated Nil issued by the third respondent herein and quash the same consequently

direct the respondents to consider the representation dated 30.09.2020 given by the petitioner within a stipulated time in a manner known to law and in accordance with law and grant such other suitable reliefs.

For Petitioner : Mr.C.Umashankar
For Respondents : Mrs.Karthika Ashok
Standing Counsel for R1 to R3

ORDER

The prayer in the writ petition is for issuance of Writ of Certiorarified Mandamus calling for the entire records pertaining to the issuance of Bill Nos.10-132-03738; 10-132-03737 dated Nil issued by the third respondent herein and quash the same and consequently direct the respondents to consider the representation dated 30.09.2020 given by the petitioner.

2. The grievance of the petitioner is that the Bill Nos.10-132-03738 and 10-132-03737 issued by the third respondent has demanded an enhanced property tax.

3. The third respondent has filed the counter affidavit wherein they have specifically stated in Paragraph No.4 which reads as follows:-

" The revision of Assessment for the property in the name of M/s. Aruna Theatres and Enterprises Private Limited is done in accordance with the resolution passed by the council vide Resolution No.784/2018 dated 18.09.2018. By the said resolution the Theatres and Kalyana Mandapam were brought under the Special Category Buildings. In the year 2018 the Corporation was about to proceed with a General Revision of Property Tax enhancing the basic rates. After necessary publication General Revision was carried out widely around the city. All the Assesseees were called to file their self declarations followed by issuance of notice under General Revision. Since, the petitioner property was categorised as Special type building and rates as determined was noticed in Form-7 which is a provisional notice dated 31.01.2019 for two properties respectively under the head of General Revision. But, later by the orders of the Government, the General Revision was withheld. Since the petitioner property is a Special type building, the revision need not be withdrawn but Nomenclature of the notice reads as General Revision, which in the present above writ petition is put to challenge attacking the demand. It has been known that the

petitioner has on total misconception with the General notice has challenged the demand. But, actually the revision is as per the resolution dated 18.09.2018. the Corporation has been advised that the Nomenclature in the Form 7 is wrongly given as General Revision without specifying the said resolution, which needs a rectification. Hence, without prejudice to the interest of the Corporation, the notice issued in Form 7 will be withdrawn and a fresh Form 7 will be given after which, the petitioner may file an appeal by way of an objection if any within the stipulated time, thereafter a Final notice of assessment in Form 10 will be issued. As advised, each and every allegations are not disputed for the reason that the demand can be substantiated and justified by issuing a fresh notice".

4. This provisional notice has been issued as a general revision, whereas the petitioner's case is falling under special revision and therefore they have demanded. In addition to the same, the learned Standing Counsel for the respondents 1 to 3 would submit that instead of provisional notice under Form 7, referring as a general revision, the respondent is intending to withdraw this notice and to issue fresh notice under Form 7. As against the notice issued under Form 7, the petitioner can make his objection before the Commissioner and only after considering his objections, a final assessment would be made and intimated in Form 10 and even thereafter, if the petitioner is having any grievances over the final assessment order, he is having a remedy before the Taxation Appellate Tribunal.

5. In view of the submission made by the learned Standing Counsel appearing for the respondents 1 to 3, this writ petition is disposed of on the above terms directing the third respondent to withdraw the earlier notice issued as a general revision and to issue a fresh notice in Form-7 and if the petitioner is having any grievances over the notice, it is open to the petitioner to file his objection to the Commissioner of Corporation. Pending this process, the respondents shall not take any coercive steps as against this petitioner by disconnecting the sewerage connection or in any other manner. No costs. Consequently connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

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+1cc to M/s.C.Uma Shankar, Advocate, SR.No.5817
+1cc to M/s.Karthika Ashok, Advocate, SR.No.5962

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AJB(CO)
KKV/24/02/2021

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