IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.15552 of 2020
and
WMP. No.19411 of 2020

Shishir R. Mehta,
C/o.Sailesh Mehta & Others,
Old Door No.185, New No.243,
Anna Salai, Chennai 600 006. ...Petitioner

Vs.

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

2. Regional Deputy Commissioner (Central),
Greater Corporation of Chennai,
Shenoy Nagar, Chennai 600 030.

3. Assistant Revenue Zone, IX,
Greater Corporation of Chennai,
No.1, Lake Area 4th Cross Street,
Nungambakkam, Chennai 600 034. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus thereby calling for all the records relating to the impugned order of the 2nd respondent dated 03.09.2020 (received on 08.09.2020) in Ma.Aa.9.Va.Thu.Na.Ka.No.R3/03109/2014 whereby revised the annual value of the proeprty tax with retrospective effect on and from the 2nd half of 2001-2002 relating to the property situated at Old Door No.185, New No.243, Anna Salai, Thousand Lights, Chennai 600 006 and quash the same as wihtout jurisdiction, arbitrary, barred by limitation, violation of the order of this Court, pre-determination and against the principles of natural justice and consequently direct the respondents to assess the property tax in the light of the orders passed by this Court in W.P. No.8699 of 2008 dated 10.04.2008 and W.P. No.23300 of 2009 dated 07.10.2014.

For Petitioner : Mr.P.C.Harikumar
for P.C.Harikumar and
Associates

For Respondents : Mr.Raja Srinivas,
Standing Counsel

O R D E R

Heard Mr.P.C.Harikumar, learned counsel for the petitioner and Mr.Rajasrinivas, learned Standing Counsel for the Greater Chennai Corporation.

2. The peitioner claims to a the co-owner of the property situated at Old Door No.185, New No.243, Anna Salai, Thousand Lights, Chennai 600 006 (property in question). This writ petition has been filed by the petitioner on his behalf and on behalf of the co-owners as well. What is impugned in the writ petition is an order passed by the 2nd respondent. i.e., the Regional Deputy Commissioner (Central), Greater Corporation of Chennai, dated 03.09.2020. The property in question is subject to property tax under the provisions of the Chennai City Municipal Corporation Act, 1990 (in short 'Act'). The property comprises of ground floor and four floors that are substantially leased out to tenants, one portion of the property being under occupation for the petitioner's personal use.

3. Initially, a provisional assessment notice dated 22.02.2009, came to be served upon the petitioner on 11.03.2008. Challenging the said notice, the petitioner filed writ petition in W.P. No.8699 of 2008 and the same came to be disposed on 10.04.2008. The Court noticed that the notice only called upon the petitioner to show cause why the property tax not revised.

4. The petitioner was granted opportunity to file objections, upon hearing of which, the respondents were directed to pass a detailed order disposing the objections. Thereafter, the respondents issued a final notice dated 10.09.2009. The petitioner was aggreived with the consequential assessment made both in regard to the annual rental value as well as in regard to the plinth area.

5. I desist from referring to the facts in detail, insofar as there is no dispute by the respondent that a fresh assessment order was passed by the respondent on 10.09.2009, which was challenged in W.P. No.23300 of 2009, disposed on 07.10.2014. This Court records therein that one more opportunity should be granted to the petitioner to submit his objections on all issues including on the retrospective levy of property tax.

6. Objections were once again filed challenging the basis of assessment. Thereafter the petitioner appeared before the 1st and 3rd respondents and produced all the relavant documents and sought inspection of the property in order to measure the

correct extent of the property so that the quantum of the tax to be levied could be finalised. Without considering the objections raised by the petitioner, the 2nd respondent had passed order dated 03.09.2020, once again assessing the property tax erroneously, according to the petitioner.

7. Seeing as an assessment of the year 2008-09 is pending till date, this Court is of the view that the matter should not be remanded yet again. Thus, by my order dated 16.04.2021, I had directed that inspection of the property be conducted in the presence of the petitioner after due notice, and the petitioner granted an opportunity to file objections. The respondent would thereafter hear the petitioner and pass a speaking order of assessment. I have recorded in that order that the period of assessment commenced from 2nd half of 2001-02 and that there was no challenge to assumption of jurisdiction under Section 137-B of the Act, insofar as the matter has been in litigation from that period onwards.

8. Inspection took place as directed. The petitioner filed objections to the proposals for assessment circulated by the respondent. However, the respondent had, without hearing the petitioner chosen to pass an order of assessment, which was again corrected by order dated 22.06.2021, wherein I stated that the letter dated 21.05.2021, would be treated as a showcause notice and the petitioner heard thereupon on 28.06.2021.

9. Consequent upon this, the respondent has passed final order dated 07.07.2021. The order contains a covering letter, a working sheet as Enclosure-1 which sets out the basic monthly rental value and annual valuation as well as computation of property tax and Enclosure-2 which is styled as a speaking order for revision of tax. Notice No.10 final assessment forms the final document.

10. Some disputes have been raised by the learned counsel for the petitioner in regard to the revised figures which have been sought to be explained by the respondent. A query is raised with regard to adoptiton of 10.92 in the annual valuation which is explained by the respondent to state that it relates to the proportion of lands in question and this is adopted for the purpose of computation based on Resolution No.470/2008.

11. The plinth area adopted by the respondents is in excess of what is offered, according to the petitioner. The respondents respond stating that the aforesaid difference constitues various factors such as whether the common area should be excluded/included, and such others. However, all these are matters of assessent and disputes on factual matters that can well be canvassed in appeal. Importantly, the

petitioner has now and at long last received, a speaking order of assessment with the break-up of the property details and methodology of assessment. The petitioner is permitted to file an appeal, if he so desires, challenging order of assessment dated 07.07.2021 along with annexures. Such appeal, if filed within a period of four (4) weeks from today, will be taken on file by the Taxation Appellate Tribunal and disposed in accordance with law.

12. This writ petition is disposed as above. Connected Miscellaneous Petitions are closed. No costs.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

rkp

To

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

2.Regional Deputy Commissioner (Central),
Greater Corporation of Chennai,
Shenoy Nagar, Chennai 600 030.

3.Assistant Revenue Zone, IX,
Greater Corporation of Chennai,
No.1, Lake Area 4th Cross Street,
Nungambakkam, Chennai 600 034.

+1cc to Mr.P.C.Harikumar Associates, Sr.No.32746

W.P. No.15552 of 2020
and
WMP. No.19411 of 2020

EV(CO)
KKV/08/09/2021