IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2021

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.NO.20355 OF 2021
AND
W.M.P.NOS.21601, 21606 AND 21605 OF 2021

D.Shankar
S/o.M.Devarajan. ... Petitioner

-Vs.-

1. The Commissioner,
Greater Chennai Corporation, Ripon Buildings,
Sydenhams Road, Kannappar Thidal,
Periyamet, Chennai, 600 003.

2. Tamil Nadu Generation And Distribution
Corporation Limited (TANGEDCO),
Rep.by its Chairman, 144, Annasalai,
Chennai 600 002.

3. Regional Deputy Commissioner
Greater Chennai Corporation,
Ripon Building,
Sydenhams Road, Kannappan Thidal,
Periyamet, Chennai 600 003.

4. Deputy Commissioner (Revenue and Finance)
Greater Chennai Corporation,
Ripon Building,
Sydenhams Road, Kannappan Thidal,
Periyamet, Chennai 600 003.

5. Revenue Officer,
Zone Office - X,
Greater Chennai Corporation,
No.117, NSK Salai,
Kodambakkam-600 034.

6. The Assistant Revenue Officer,
Zone Office-X,
Greater Chennai Corporation,
No.117, NSK Salai,
Kodambakkam-600 034.

7. Assistant Engineer,
Tamil Nadu Generation and Distribution,
Corporation Limited (TANGEDCO),
NSK Salai, Vadapalani-600 026. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Z.O.10 RDC No.R1/SPL/20 dated 10.06.2021 issued by sixth respondent as unconstitutional, void, illegal and arbitrary and to quash the same and direct the first, third, fourth, fifth, sixth respondents to re-determine the property tax at the rate of Rs.12,351/- (Rupees Twelve Thousand and Three Hundred and Fifty One only) for the property situated at No.404(209), NSK Salai, Vadapalani, Chennai – 600 026.

For Petitioner : Mr.David Tyagaraj

For Respondent : Ms.S.Vaitheeswari
standing counsel (Chennai Corporation)
for R1, R3, R4, R5 & R6
Ms.Keerthana R.Shenoi
for Mr.L.Jaivenkatesh, for R2 and R7

O R D E R

Captioned writ petition pertains to property tax qua 'Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919)' which was earlier known as Madras City Municipal Act, 1919, and therefore, the same shall hereinafter be referred to as 'MCMC Act' for the sake of convenience and clarity.

2. Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 23.09.2021, which reads as follows:

> 'Ms.S.Vaitheeswari, learned standing counsel for Chennai Corporation accepts notice on behalf of respondents 1, 3, 4, 5 & 6.
>
> 2. Ms.Keerthana R.Shenoi, learned counsel who is before this Court representing Mr.L.Jaivenkatesh, accepts notice on behalf of respondents 2 & 7.
>
> 3. Registry to show the names of learned standing counsel in the next listing.

4. The pointed submission by Mr.David Tyagaraj, learned counsel for writ petitioner is that there was no notice to writ petitioner prior to impugned 10.06.2021 notice. In other words, there was no revision much less revision in accordance with Section 100 of MCMC Act and Taxation Rules which forms part of MCMC Act i.e., Schedule IV of the MCMC Act.

5. To be noted, MCMC Act stands for Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919) which was earlier known as Madras City Municipal Act, 1919.

6. List in the Admission Board tomorrow i.e., on 24.09.2021.'

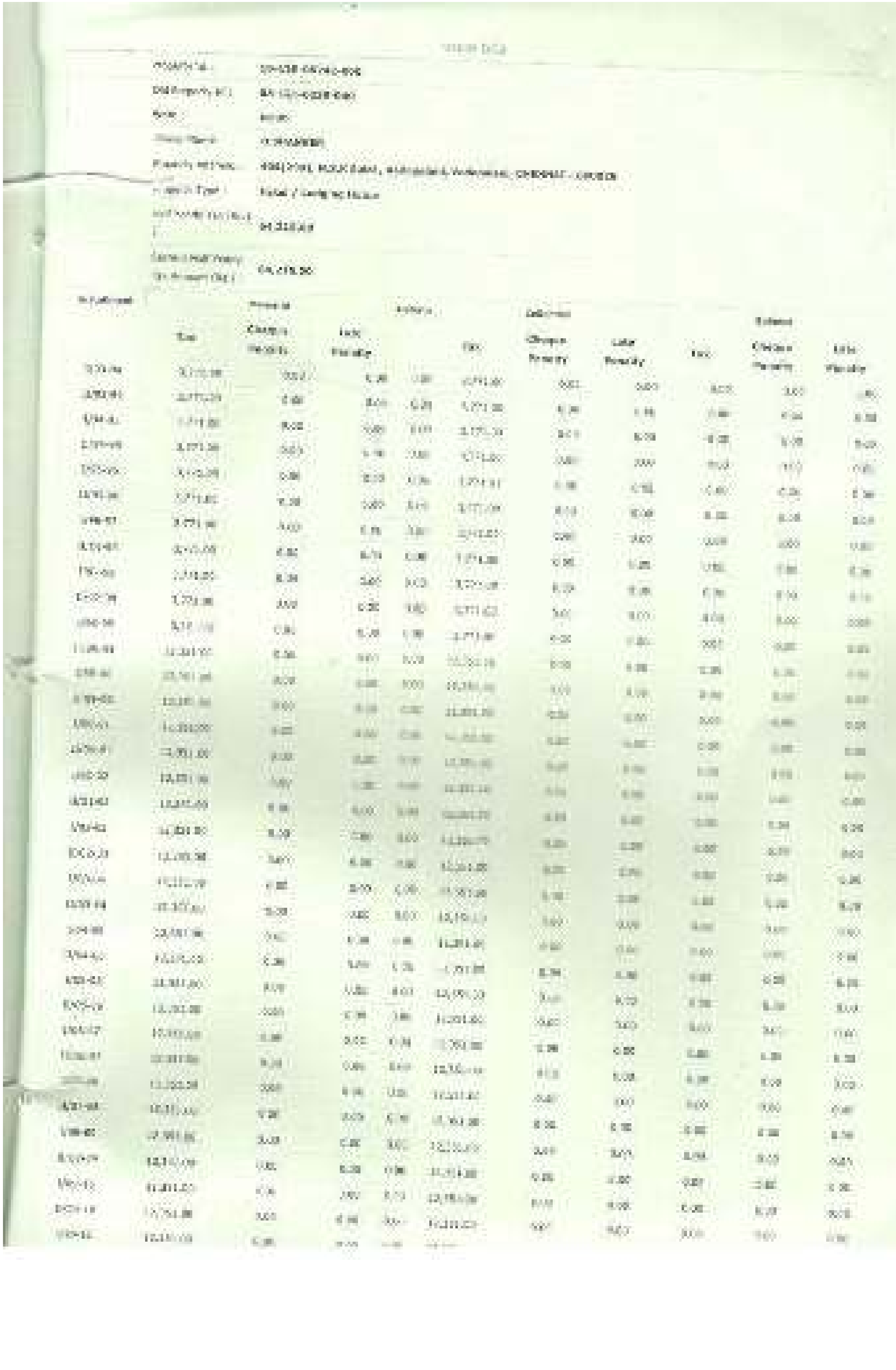
3. Mr.David Tyagaraj, learned counsel for writ petitioner, Ms.S.Vaitheeswari, learned standing counsel for Chennai Corporation, and Ms.Keerthana R.Shenoi, learned counsel representing Mr.L.Jaivenkatesh, learned standing counsel for TANGEDCO are before this Court. To be noted, TANGEDCO stands for/denotes Tamil Nadu Generation and Distribution Corporation Limited. With the consent of all the learned counsel, main writ petition is taken up.

4. Captioned writ petition turns on a short point and that short point is, property tax for writ petitioner's property at '404 (209), N.S.K.Salai, Vadapalani, Chennai-600 026' [hereinafter 'said property' for the sake of convenience and clarity] bearing Bill No.05242 has been enhanced from Rs.12,351/- (Rupees Twelve Thousand Three Hundred and Fifty One Only) to Rs.64,215/- (Rupees Sixty Four Thousand Two Hundred and Fifteen Only) without notice to the writ petitioner and the writ petitioner has now been visited with a 'notice dated 10.06.2021 bearing reference No.Z.O.10 RDC No.R1/SPL/20' [hereinafter 'impugned notice' for the sake of convenience and clarity]. The impugned notice is only a demand notice but it is the specific and categoric case of the writ petitioner that the property tax for said property has been enhanced without any prior notice to the writ petitioner.

5. Learned counsel for writ petitioner also submits that enhancement of property tax should be done in accordance with MCMC Act and more particularly, in accordance with Section 100 of MCMC Act and Taxation Rules adumbrated in Schedule IV of the MCMC Act.

6. Learned standing counsel for Chennai Corporation, on instructions, submits that the enhancement of property tax for

said property was done as part of General Revision on and from I/18-19 i.e., first half year of 2018-2019. In other words on and from 01.04.2018 is her say. Learned standing counsel for Chennai Corporation draws the attention of this Court to a download from the official website which has been filed by the writ petitioner in the typed set of papers [at Page Nos.48 and 49] which reads as follows:

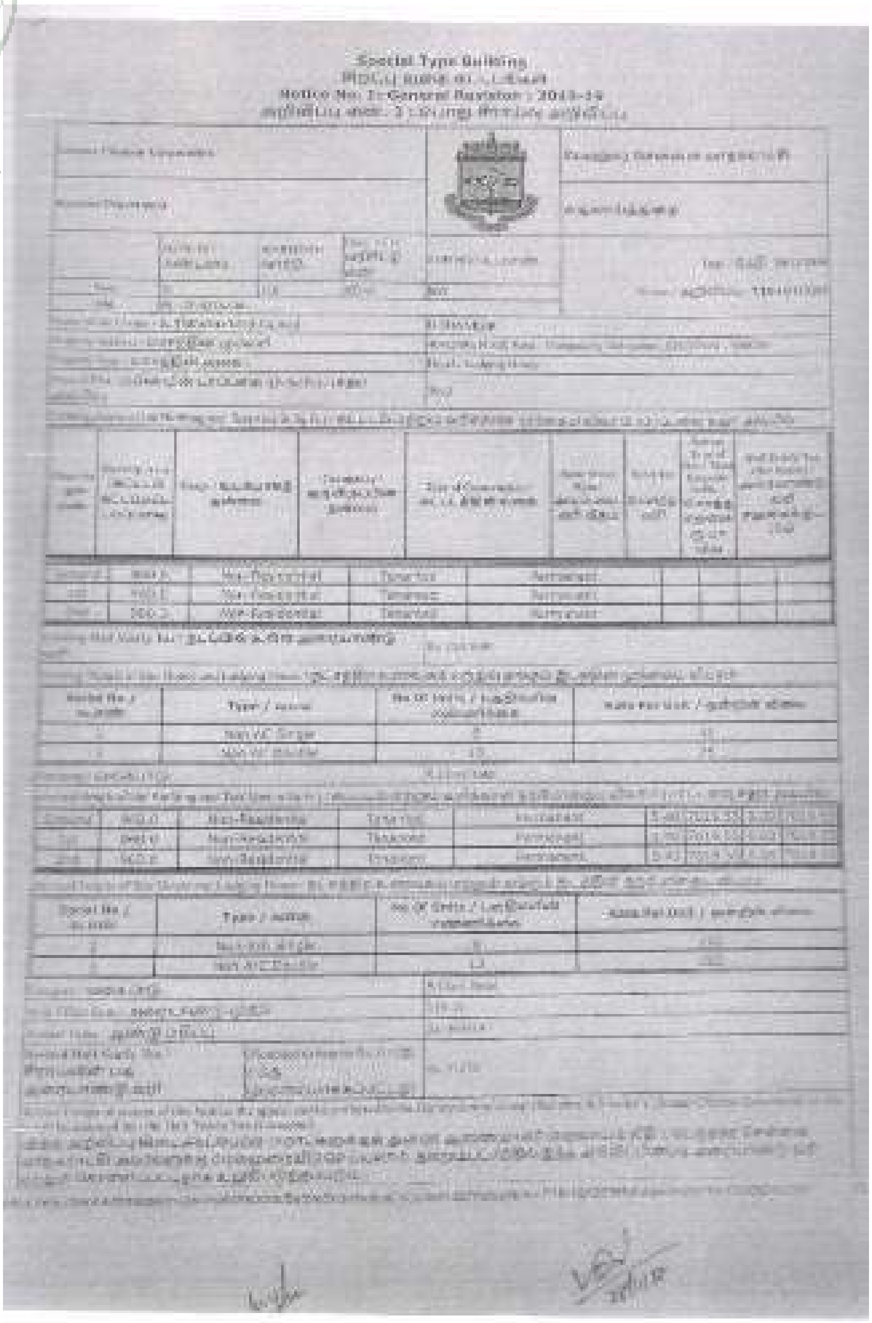


I/11-12	12,351.00	0.00	0.00	0.00	12,351.00	0.00	0.00	0.00	0.00	0.00
II/11-12	12,351.00	0.00	0.00	0.00	12,351.00	0.00	0.00	0.00	0.00	0.00
I/12-13	12,351.00	0.00	0.00	0.00	12,351.00	0.00	0.00	0.00	0.00	0.00
II/12-13	12,351.00	0.00	0.00	0.00	12,351.00	0.00	0.00	0.00	0.00	0.00
I/13-14	12,351.00	0.00	0.00	0.00	12,351.00	0.00	0.00	0.00	0.00	0.00
II/13-14	12,351.00	0.00	0.00	0.00	12,351.00	0.00	0.00	0.00	0.00	0.00
I/14-15	12,351.00	0.00	0.00	0.00	12,351.00	0.00	0.00	0.00	0.00	0.00
II/14-15	12,351.00	0.00	0.00	0.00	12,351.00	0.00	0.00	0.00	0.00	0.00
I/15-16	12,351.00	0.00	0.00	0.00	12,351.00	0.00	0.00	0.00	0.00	0.00
II/15-16	12,351.00	0.00	0.00	0.00	12,351.00	0.00	0.00	0.00	0.00	0.00
I/16-17	12,351.00	0.00	0.00	0.00	12,351.00	0.00	0.00	0.00	0.00	0.00
II/16-17	12,351.00	0.00	0.00	0.00	12,351.00	0.00	0.00	0.00	0.00	0.00
I/17-18	12,816.00	0.00	0.00	0.00	12,816.00	0.00	0.00	0.00	0.00	0.00
II/17-18	12,816.00	0.00	0.00	0.00	12,816.00	0.00	0.00	0.00	0.00	0.00
I/18-19	64,215.00	0.00	94.00	0.00	64,215.00	0.00	94.00	0.00	0.00	0.00
II/18-19	64,215.00	0.00	466.00	0.00	24,937.00	0.00	466.00	39,278.00	0.00	0.00
I/19-20	64,215.00	0.00	466.00	0.00	0.00	0.00	0.00	64,215.00	0.00	466.00
II/19-20	64,215.00	0.00	233.00	0.00	0.00	0.00	0.00	64,215.00	0.00	233.00
I/20-21	64,215.00	0.00	233.00	0.00	0.00	0.00	0.00	64,215.00	0.00	233.00
II/20-21	64,215.00	0.00	233.00	0.00	0.00	0.00	0.00	64,215.00	0.00	233.00
I/21-22	64,215.00	0.00	932.00	0.00	0.00	0.00	0.00	64,215.00	0.00	932.00
Total:	**9,73,605.00**	**0.00**	**2,657.00**	**0.00**	**6,13,252.00**	**0.00**	**560.00**	**3,60,353.00**	**0.00**	**2,097.00**

Total Demand: 9,76,262.00 **Total Rebate:** 0.00 **Total Collection:** 6,13,812.00 **Total Tax Due:** 3,62,450.00

Payment Details

7. Learned standing counsel for Chennai Corporation also submits that the writ petitioner has paid enhanced property tax for the first half year (post enhancement) and has now woken up belatedly. Learned counsel also placed before this Court a soft copy of a provisional notice for General Revision qua 2018-19. A scanned reproduction of the same is as follows:


Special Type Building

8. However, records of Chennai Corporation do not contain any acknowledgment for service of provisional notice on the writ petitioner. It is also submitted (on instructions) that it was dispatched by ordinary post. Therefore, this Court cannot but come to the conclusion that the writ petitioner was not given opportunity to object to the proposed upward revision i.e., enhancement of property tax for said property on and from I/18-19 half year i.e., on and from 01.04.2018. Therefore, this Court deems it appropriate to direct the respondent to redo the

revision by adhering to the procedure and provisions adumbrated in MCMC Act and more particularly Taxation Rules (Schedule IV thereat) albeit with a caveat which will be set out infra. Before that is done, it is necessary to notice that the stated position of TANGEDCO is that the electricity supply to said property has not been disconnected. Learned counsel also placed before this Court a communication dated 23.09.2021 which reads as follows:

TANGEDCO

From

T.DHARMALINGAM,
Assistant Engineer,
O&M/Alagirinagar section,
Chennai -26

To

The Standing council,
TANGEDCO legal branch,
High court of Madras,
Chennai -2

Lr no:AEE/O&M/SGM/F-C.C /D no. 282 **/21 dt** 23/09/2021

Sir,

Sub: Elecy – CEDC/South -II / K.K.Nagar – Saligramam Sub-division Alagiri nagar section – S/c No.285.017.144 – Service connection not Disconnected – report submission of regarding.

Ref : W.P.No.20355 of 2021

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With reference to the above the service no.285.017.144 belongs to the name of Thiru.D.Shankar, No.206, Arcot road, Vadapalani, Ch-26 the service is live service and it was not disconnected on 04.09.2021, Hence it is informed that the Service no.285.017.144 is live serviceand there was no disconnection from our end.

Assistant Engineer
O&M/Alagirinagar
TANGEDCO
CEDC/South
Chennai-600 026.

9. Learned counsel for writ petitioner submits that the fuse was removed and electricity was in fact disconnected but it has since been restored after the writ petition came up on admission Board of this Court. There is also some submission regarding disconnection, that it has been done by Chennai Corporation officials and not by the TANGEDCO officials but in the light of the stated position of the writ petitioner that there is electricity connection and power supply to said property as of now, this Court deems it appropriate to not to delve into the matter any further and leave it at that.

10. In the light of the narrative thus far, the following order is passed:

(a) The impugned notice being notice dated 10.06.2021 bearing reference No.Z.O.10 RDC No.R1/SPL/20 is set aside solely on the ground that provisional notice has not been served on the writ petitioner and writ petitioner has not been given an opportunity to object before revision;

(b) As the impugned demand is being set aside solely on the aforementioned ground (though obvious) it is made clear that this Court has not expressed any view or opinion on merits of the matter;

(c) Chennai Corporation shall now serve a copy of aforementioned provisional notice on the writ petitioner under due acknowledgment and complete the revision/assessment/enhancement of property tax on and from I/18-19 (01.04.2018) in accordance with provisions and procedure adumbrated in MCMC Act and more importantly, as per Section 100 of MCMC Act and Taxation Rules contained in Schedule-IV of MCMC Act;

11. The above exercise i.e., de novo exercise, shall be commenced within a fortnight i.e., on or before 01.10.2021 and completed by Chennai Corporation within twelve weeks therefrom i.e., on or before 24.12.2021.

12. In the interregnum, considering the undisputed quantum of property tax that existed till II/2017-18 and enhanced amount both of which have been set out supra, this Court directs the writ petitioner to pay the property tax adhoc/on account at the rate of Rs.25,000/- (Twenty Five Thousand only) from I/2018-19 half year. All payments on and from 01.04.2018 made thus far shall be adjusted as against this Rs.25,000/- per half year adhoc/on account payment. After the above exercise is completed, the aforementioned adhoc payment shall be suitably adjusted post revision. Though the revision will be completed in accordance with aforementioned directives, all remedies available against the revision under MCMC Act and Taxation Rules which form part of MCMC Act i.e., Schedule IV of MCMC Act will be available to writ petitioner post de novo revision and will take its course if the writ petitioner chooses to assail the revision.

13. Now, that the aforementioned notice is set aside as a sequitur, any distraint/coercive action pursuant to aforesaid demand will stand lifted, if any.

14. Captioned Writ Petition is disposed of as closed with the above said directives and connected Writ Miscellaneous Petitions are also disposed of as closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mk

To

1. The Commissioner,
Greater Chennai Corporation Ripon Buildings,
Sydenhams Road, Kannappar Thidal,
Periyamet, Chennai, 600 003.

2. The Chairman,
Tamil Nadu Generation And Distribution
Corporation Limited (TANGEDCO),
144, Annasalai, Chennai 600 002.

3. Regional Deputy Commissioner
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Tamil Nadu Generation and Distribution,
Corporation Limited (TANGEDCO),
NSK Salai, Vadapalani-600 026.

+2ccs to Mr.David Tyagaraj, Advocate, S.R.No.49266
+1cc to Mr.L.Jaivenkatesh,, Advocate, S.R.No.49648

W.P.No.20355 of 2021
and
W.M.P.Nos.21601, 21606 and 21605 of 2021

CP(CO)
CS/12/10/2021