IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2021

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.21561 of 2021
and
W.M.P.No.22761 of 2021

Shri Madras Kutch Kadava Patidar Samaj,
Rep.by its Secretary Shri.Nanji Patel,
No.7,200 Feet Road, Ponniammanmedu,
Madhavaram, Chennai – 600 110. ... Petitioner

-Vs.-

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai-600 003.

2. The Deputy Commissioner (R&F),
Greater Chennai Corporation,
Rippon Building, Chennai-600 003.

3. The Revenue Officer,
Greater Chennai Corporation,
Rippon Building, Chennai-600 003.

4. The Assistant Revenue Officer,
Revenue Department,
Zone-3, Madhavaram,
Greater Chennai Corporation,
Chennai-600 060. .. 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 of the 3rd Respondent pertaining to impugned demand notice vide letter செ.ம.அ.வ.து/சிறப்பு/2021-22 dated 19.06.2021 and on perusal thereof quash the same and to revise the property tax assessment done on 15.11.2018 vide General Revision Notice No.1-Notice No.7/18-19/121122 by considering the actual gross income earned by the petitioner society.

For Petitioner : Mr.Murugesh Kasivel
For Respondent : Ms.S.Vaitheeswari,
Standing Counsel
for Chennai Corporation

ORDER

Captioned writ petition has been filed assailing enhancement of property tax for a property belonging to writ petitioner at 'No.7, 200 Feet Road Ponniammanmedu, Madhavaram, Chennai-600110' [hereinafter 'said property' for the sake of convenience and clarity].

2. Notwithstanding very many averments and very many grounds in the writ affidavit, Mr.Murugesh Kasivel, learned counsel for writ petitioner submits that enhancement of half yearly property tax for the said property of the writ petitioner is from Rs.2,69,985/- to Rs.7,05,250/- with effect from I/2018-2019 i.e., on and with effect from 01.04.2018.

3. Learned counsel submits that the writ petitioner is registered as a Society under the Tamil Nadu Societies Registration Act, 1975 (Act 27 of 1975) and said property is a Community Hall which is being let out to writ petitioner's members at the rate of Rs.5,000/- per day and for others at Rs.1,50,000/- per day. It is not necessary to dilate more on this, as the matter turns on enhancement of property tax qua said property.

4. Ms.S.Vaitheeswari, learned standing counsel for Chennai Corporation accepts notice on behalf of all the four respondents. Learned standing counsel submits that the aforementioned enhancement has been done as part of general revision. Learned counsel draws the attention of this Court to Sub-Rule (4) of Rule 4 of Schedule IV Taxation Rules of 'Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919)' which was earlier known as Madras City Municipal Act, 1919, and therefore shall hereinafter be referred to as 'MCMC Act' for the sake of convenience and clarity and submits that the same provides for general revision. Learned counsel also submits that there are certain resolutions made by Chennai Corporation and general revision is being done once in five years.

5. Be that as it may, qua aforementioned general revision, first notice which the writ petitioner was visited with is a notice dated 15.11.2018 (page No.12 of typed set of papers) which reads as follows:

Special Type Building
சிறப்பு வகை கட்டடங்கள்
Notice No. 1: General Revision : 2018-19
அறிவிப்பு எண். 1 : பொது சீராய்வு அறிவிப்பு

Greater Chennai Corporation			பெருநகர சென்னை மாநகராட்சி
Revenue Department			வருவாய்த்துறை

	ZONE NO / மண்டலம்	WARD NO / வார்டு	BILL NO / வரிவிதிப்பு எண்	SUB NO / உட்பிரிவு எண்	Date / தேதி 15/11/2018 Notice / அறிவிப்பு : 7/18-19/121122
New	03	028	00016	000	
Old	MDV-14063				

Name of the Owner / உரிமையாளர் பெயர் :	SHRI MADRAS KUTCH KADAVA PATIDAR SAMAJ
Property Address / சொத்தின் முகவரி :	NO 7 , 200 FEET ROAD PONNIAMMANMEDU, PONNIAMMANMEDU, MADHAVARAM, CHENNAI - 600110
Property Type / சொத்தின் வகை :	Kalyana Mandapam
Area of Plot / மனையின் பரப்பளவு (in Sq.Ft.) / (சதுர அடியில்)	7500

Floor no / தள எண்	Built Up Area / கட்டிடக் கட்டுமான பரப்பளவு	Usage / உபயோகத் தன்மை	Occupancy / குடியிருப்பின் தன்மை	Type of Construction / கட்டடத்தின் வகை	Basic Street Rate / அடிப்படை வரி விகிதம்	Total Tax / மொத்த வரி	Rebate Type of Roof Total Discount in Rs. / மொத்த தள்ளுபடி	Half Yearly Tax after Rebate / அரையாண்டு வரி
1	2	3	4	5	6	7	8	9

Existing details of the Building and Tax(Area in Sq.Ft) / கட்டடம் மற்றும் வரிகளின் முந்தைய விவரம் (பரப்பளவு சதுர அடியில்)	
Rate Charged Per Marriage / திருமணத்திற்கான கட்டணம் :	250000
Existing Half Yearly Tax / முந்தைய அரையாண்டு வரி :	Rs. 0.00
Revised details of the Building and Tax(Area in Sq.Ft) / கட்டடம் மற்றும் வரிகளின் சீராய்வு விவரம் (பரப்பளவு சதுர அடியில்)	
Rate Charged Per Marriage / திருமணத்திற்கான கட்டணம் :	250000
Category / வகைபாடு :	With Vessels
With Effect from / அமலாகும் முதல் :	I/18-19
Annual Value / ஆண்டு மதிப்பு :	Rs. 5687400
Revised Half Yearly Tax / சீராய்வு அரையாண்டு வரி (Rounded to nearest Rs 5)	Rs. 705280

Within 15days of receipt of this Notice, the appeal can be preferred to the Deputy commissioner (Revenue & Finance), Greater Chennai Corporation, or else it will be assumed that the Half Yearly Tax is accepted.

இந்த அறிவிப்பு கிடைக்கப்பெற்ற 15 நாட்களுக்குள் துணை ஆணையாளர் (வருவாய் & நிதி), பெருநகர சென்னை மாநகராட்சி அவர்களுக்கு மேல்முறையீடு செய்யலாம். தவறும் பட்சத்தில் இந்த அறிவிப்பிலுள்ள அரையாண்டு வரி ஏற்றுக் கொள்ளப்பட்டதாக கருதப்படும்.

15/11/18		
Signature of the Assessor / வரி மதிப்பீட்டாளர் கையொப்பம்	Signature of Assistant Revenue Officer / உதவி வருவாய் அலுவலர் கையொப்பம்	For Commissioner / ஆணையாளருக்காக

Calculation method : For Calculation method please visit / (வரி கணக்கிடும் முறைக்கு கீழ்க்கண்ட இணையதளத்தில் காண்க)
http://www.chennaicorporation.gov.in/...index.htm

GREATER CHENNAI CORPORATION
REVENUE DEPARTMENT
ZONE III
... Road, Madhavaram ...

MANUAL METHOD ARRIVING PROPERTY TAX FOR SPECIAL TYPE BUILDINGS

ZONE III (Kalyana Mandapam)

SHRI MADRAS KUTCH KADAVA PATIDAR SAMAJ (03-026-00018-000)

Rate Charged for function(in Rs.)	250000	
Gross Income	Rate Charged for function X 50 Marriages	12500000
ARV(with vessels)	50% of Gross Income	6250000
MRV	ARV/12	520833.3333
AV	MRV X 10.92	5687500
PROPERTY TAX	12.40% AV	705250
ARV-Annual Rental Value		
MRV-Monthly Rental Value		
AV-Annual Value		

REVENUE DEPARTMENT
ZONE-III

6. Learned counsel for writ petitioner is unable to give the exact date of receipt of the aforementioned notice by writ petitioner, but writ petitioner did respond to the above vide a short and terse communication dated 11.12.2018. Thereafter, nothing happened is learned counsel's say.

7. In the aforesaid circumstances i.e., when things stood as above writ petitioner was visited with impugned notice. This was followed by action on the part of the respondent on 22.09.2021 wherein said property was locked and sealed for alleged non-payment of enhanced property tax.

8. From the official website of Chennai Corporation which is accessible, it comes to light that writ petitioner has paid property tax at the existing rate of Rs.2,69,985/- per half year without any default up to date. The issue is only with regard to enhanced component on and from 01.04.2018.

9. To be noted, learned counsel for writ petitioner submits that adhoc payment of Rs.3,39,970/- on 07.09.2021 and Rs.5,00,000/- on 04.10.2021 have been made by the writ petitioner.

10. Be that as it may, it comes to light that differential component qua enhancement from Rs.2,69,985/- to Rs.7,05,250/- is Rs.4,35,265/- and 50% of enhanced component is Rs.2,17,632.50. In this backdrop, learned counsel for writ petitioner submits that the said property being Community Hall, a festival of comity (Navarathri/Dussehra) is in the anvil and it is scheduled to be commenced tomorrow, but the said property has been locked and sealed.

11. Be that as it may, there cannot be any two ways that enhancement of property tax is to be done inter alia in accordance with Sections 99, 100 and Taxation Rules being Rules adumbrated in Schedule IV of MCMC Act. As rightly pointed out by learned standing counsel for Chennai Corporation, Chennai Corporation certainly has powers to do general revision and it is a matter of plain logic that it is essential to have periodic revision as the local bodies are to provide amenities, but the issue is mode and methodology that has to be adopted for making such revision. Before disposing of the captioned writ petition, this Court deems it appropriate to give an adumbration (for balancing rights of assessees and Revenue in days to come) of some important points that have been noticed and they are as:

(a) Aforementioned notice dated 15.11.2018 bearing reference Notice No.7/18-19/121122 does not mention the provision of law under which it has been issued. From hereon and henceforth, it is desirable that Chennai Corporation shall mention the provision of law when a general revision notice of this kind is issued;

(b) Aforementioned general revision notice submits that noticee should file 'appeal' within fifteen days from the date of receipt of notice and Appeal should be made to the Deputy Commissioner (Revenue and Finance), Greater Chennai Corporation and if no such appeal is made, it will be assumed that enhanced half yearly property tax is accepted. However, appeal provision has not been mentioned. This

Court is unable to see such a scheme in the MCMC Act;

(c) It is desirable that before making general revision, returns are called for from property owners either by issue of Public notice or in some other manner, calling for details qua the extent of property used, nature of use of property, rent yielded by property etc., and then provisionally compute the property tax by way of working sheet, provide the working sheet to property tax owners, call for objections and then finalize the enhancement, but in the absence of resolutions which are said to have been made by the local body, I do not want to venture into formulating procedures in this order;

12. The above is only broad general guidelines (made in recommendatory tone) so that general revision process is streamlined in the days to come.

13. Reverting to the case on hand, considering the demonstrable bona fides of writ petitioner, considering the nature of said property and considering the track record of writ petitioner, notwithstanding the core prayer, taking recourse to the residuary limb of prayer in writ jurisdiction, the following order is passed:

(a) Impugned demand notice is set aside solely on the ground that the objections of writ petitioner have not been considered and final enhanced revision has not been made, but this is subject to certain conditions which will be set out in other limbs of this order infra;

(b) 15.11.2018 notice (together with working sheet) shall be treated as provisional notice and the writ petitioner shall be given opportunity to file further objections in addition to terse objections dated 11.12.2018;

(c) After considering the objections of writ petitioner and making site inspection (if necessary), the final general revision assessment order shall be made;

(d) The above exercise shall be completed as expeditiously as possible i.e., as expeditiously as the business of respondent would permit and in any event, within three months from today i.e., on or before 04.01.2022;

(e) Writ petitioner shall pay half yearly property tax at the existing rate of Rs.2,69,985/- together with 50% of enhanced component (to be noted, 50% of enhanced component is Rs.2,17,632.50 and it is rounded off to Rs.2,00,000/-). In other words, writ petitioner will pay half yearly property tax for the said property with effect from 01.04.2018 at the rate of Rs.4,69,985/- and this payment is adhoc/on account basis subject to adjustments depending on the conclusion of upward revision;

(f) To be noted, aforementioned 50% of enhancement has been done to balance/safe guard the interest of assessee/property owner (who in this case have demonstrated their bona fides) and that of the Revenue by adopting thumb rule approximation;

(g) Though obvious, it is made clear that after final general revision assessment order is made in the aforesaid manner within the aforementioned time frame, remedies if any to writ petitioner as provided in law will be available;

(h) In the light of there being no disputation about payment of Rs.5,00,000/- on 04.10.2021, the lock and seal in this case shall be removed forthwith by the respondents;

(i) If there is any delay or default in payment of half yearly property tax at the aforementioned rate of Rs.4,69,985/- per half year, legal consequences will follow and respondent is at liberty to proceed in accordance with law;

13. Captioned Writ Petition is disposed of with the above directives. Consequently, captioned writ miscellaneous petition is disposed of as closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mk/nsa

To

1.The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai-600 003.

2.The Deputy Commissioner (R&F),
Greater Chennai Corporation,
Rippon Building, Chennai-600 003.

3. The Revenue Officer,
   Greater Chennai Corporation,
   Rippon Building, Chennai-600 003.

4. The Assistant Revenue Officer,
   Revenue Department,
   Zone-3, Madhavaram,
   Greater Chennai Corporation,
   Chennai-600 060.

+1CC to M/s.S.Vaithieswari, Advocate, Sr.No.52853
+2CCs to Mr.A.Raja Mohamed, Advocate, Sr.No.52214

W.P.No.21561 of 2021
and
W.M.P.No.22761 of 2021

JPL (CO)
K.RK. (22.11.2021)