IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.21552 of 2021
(Through Video Conferencing)

Mr. M.Gagan Bothra ... Petitioner

Vs

1. The Commissioner
Revenue Department
Corporation of Chennai
Rippon Building, Chennai-600 003.

2. The Assistant Revenue Officer
Corporation of Chennai
Zone -5, Ward No.57,
Anna Pillai Street
Sowcarpet, Chennai. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent by way of a writ of mandamus or any other appropriate writ, direction or order in the nature of a writ dispose of the representation dated 16.09.2021 within the time frame fixed by this Hon'ble Court.

For Petitioner : Mr.N.Gagan Bothra

For Respondents : Ms.S.Vaitheeswari
For R1 and R2 Standing Counsel for
Chennai Corporation.

ORDER

The writ petitioner is before this Virtual Court representing the matter in person i.e., party in person, case file placed before me brings to light that necessary permission has been granted to the writ petitioner to appear in person by the Hon'ble Committee concerned.

2. Be that as it may, captioned matter pertains to levy, demand and collection of property tax under Chennai City Municipal Corporation Act, 1919 (which was earlier known as Madras City Municipal Act, 1919) and as per the taxation Rules therein which form schedule IV of the said Act.

3.Notwithstanding very many averments and grounds raised in the writ affidavit, as the prayer in the captioned writ petition is short and simple, the writ petitioner drew the attention of this Court to page no. 16 of the typed set of papers which is a print out of the download from the official website of the Chennai Corporation.

4. Adverting to the above download/print out writ petitioner points out that half-yearly property tax qua said property has been enhanced from 27,285/- to 72,805/- with effect from 01.04.2009. Ms.S.Vaitheeswari, learned standing counsel for Chennai Corporation, accepts notice on behalf of both the respondents, submits on instructions that a provisional notice qua revision i.e., aforementioned revision has been sent but only a soft-copy is available. Learned Standing Counsel submits that it is necessary to examine the same before asserting the position as to whether this provisional notice has been served to the writ petitioner. The Learned Standing Counsel cannot be found fault with as the matter is in the Admission Board. To be noted writ petitioner asserts that no provisional petition was ever served on him, his late father or on his tenant. This submission is recorded.

5. As there is a factual controversy, this Court deems it appropriate to accede to the simple prayer of writ petitioner i.e., disposal of this representation dated 16.09.2021 which reads as as follows:

REMAINDER

Dated: 16-09-2021

From,
M. Gagan Bothra
S/o. Late Shri S. Mukanchand Bothra
44, Veerappan Street,
Sowcarpet, Chennai – 79
~~9940401922~~

To,
The Commissioner
Revenue Department,
Corporation of Chennai
Rippon building, Chennai

Ref :- Notice dated [illegible] for the premises bearing door No. 44, Veerappan Street, Sowcarpet, Chennai – 79

With reference to the notice dt:- 31-03-2017, since till date no orders are passed by your goodself and my father also demised on 17-04-2019, I in capacity as the legal heir give this remainder once again questioning the said notice and notice dt:- 06-09-2021 seeking demand for the enhancement of tax on the following grounds,

I humbly submit that my late father HUF (i.e) Shri S. Mukanchand Bothra HUF was a joint developer and the members of the HUF (Family members) are in possession of the above-mentioned property and are paying the respective government / statutory dues. I humbly submit that my father demised on 17-04-2019 and hence I am issuing this letter in capacity as the legal heir and a member of the HUF.

I submit that my father has paid the entire tax amount as per the old demand of Rs. 27,285/-. The revenue officer has not even verified the accounts properly. The demand made is highly improper and no basis as to how Rs. 72,805/- was arrived when the demand was already made final earlier which was only Rs 27,285/-

I submit that the revenue officer has not even credited to his accounts and double tax amount has been adjusted pertaining to year from 2001-2004 and no prior notice was issued before raising the amount as demanded and no enquiry was conducted and no opportunity was given to me or my late father to question such an abnormal increase, which is trice the original demand.

I state that since the amount of Rs. 2,69,000/- were not considered and the revenue officer issued a notice dated 08-02-2016 stating that there is a balance of Rs. **3,08,585** according to **Bill No. 05-057-07187-000**. I state that the present notice is entirely contrary to the earlier notice where the amount mentioned is **Rs. 17,59,025/-** without any basis.

The amount of Rs. 2,69,000/- is not taken into account for the reason that the cheque given by the me was returned. I am having the bank statement, which would show that the said cheque had been cleared, and payment was debited. The revenue officer has to be directed to verify the accounts properly and 95% of the premises is vacant whose construction is yet to be completed.

At the first instance the amount demanded was Rs. **3,08,585**/- and the said amount was paid through cheque and further amount was demanded and all of a sudden without any prior notice or enquiry the present demand was made and no details or particulars were furnished or given as to how the amount demanded in or on a sudden became **Rs. 17,59,025**/- and much surprising is that the said amount has been increased from past 10 years for which amount has been paid.

I submit that the Ex - Hon'ble chief minister **had deducted** 33% of all property tax all over Tamilnadu and this deduction has **not** reflected in my property.

As mentioned above no particulars or details have been filed and no enquiry has been made and the procedure laid down under the act has not oeen followed and there is a clear violation of principles or natural justice and the amount now demanded according to me is improper and illegal and without any basis or warrant. Therefore, I request you to kindly give me an opportunity and a personal hearing before any final decision is taken.

M. Gagan Bothra

6. Learned Standing Counsel submits that the above representation will be disposed of within a fortnight from today i.e., on or before 20.10.2021. The proceedings/order disposing of writ petitioner's 16.09.2021 representation shall be served on the writ petitioner, under due acknowledgement within three working days from the date of disposal by the second respondent. Though obvious, it is made clear that the representation shall be disposed of on its own merits and in accordance with law, i.e., on the merits of the representation however owing to the factual controversy,considering the peculiar facts and circumstances of this case, any coercive action with regard to enhancement with effect from 01/09/2010 shall be post disposal of the representation and subject to the disposal of the representation, though obvious it is made clear that any arrears pertaining to the period prior to the revision will proceed in accordance with law. Captioned Writ Petition disposed of on above terms. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nst

To

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Rippon Building, Chennai-600 003.

2. The Assistant Revenue Officer
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+1cc to M/s.Vaithieswari, Advocate, S.R.No.52855

W.P.No.21552 of 2021

GJ(CO)
SB(01/11/2021)