IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.32414 & 32415 of 2016
and
W.M.P.Nos.28116 to 28119 of 2016

M.Sellamuthu ...Petitioner in both W.Ps.

-vs-

1.The State of Tamil Nadu,
By its Secretary to Government,
Municipal Administration and Water
Supply Department, Fort St. George,
Chennai-600 009.

2.The Commissioner,
Salem Corporation,
Salem. ...Respondents in both W.Ps.

Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in Na.Ka.No.J6/2295/07 dated 20.10.2009 for the Property Tax Assessment Nos.2052287 and 2051749 respectively and consequential proceedings dated 18.03.2016 issued by the respondent and quash the same as illegal, arbitrary and non est in law and consequently direct the respondent to refix the property tax for the petitioner property in accordance with G.O.No.169 & 170 19.04.1999 and 02.09.1998 of Municipal Administration and Water Supply Department and Resolution No.52/1999 dated 30.04.1999 and Resolution No.235 dated 29.09.1999 passed by the Salem Municipal Corporation Council within the time stipulated by this Court.

For Petitioner (In both W.Ps.) : Mr.B.Vijay

For Respondents (In both W.Ps.) : Mr.V.Veluchamy,
Government Advocate [For R1]
M/s.K.Bhuvaneswari
Standing Counsel for Salem Corporation [For R2]

COMMON ORDER

The writ on hand is filed to call for the records pursuant to the notice of demand passed by the second respondent for payment of property tax in respect of the property belongs to the petitioner.

2.The petitioner states that he purchased the property bearing old Door Nos.15 and 16, 6/265, New Door Nos.257 and 256 admeasuring an extent of 1715 sq.ft. and 2026 sq.ft. respectively situated at Alagapuram Village, Salem Corporation, Salem by virtue of registered sale deeds. He constructed the buildings after getting proper approval from the local body authorities. The second respondent assessed the properties in the year 1995 for payment of property tax.

3.The learned counsel for the petitioner made a submission that the property tax assessment was made improperly and not in consonance with the Government Orders passed. Further the petitioner was not provided with sufficient opportunity to submit these Government Orders for the purpose of getting certain benefits granted by the Government.

4.This Court is of the considered opinion that the demand notice is under challenge in the present writ petitions. The learned counsel for the petitioner states that pursuant to the interim orders granted by this Court on 16.09.2016 and 04.10.2019, the petitioner is punctually paying the property tax. Further, the learned counsel for the second respondent, on instructions, made a submission that as of now, the arrears of property tax due to be paid by the writ petitioner in respect of two properties are Rs.3,73,679/- and Rs.1,25,269/- respectively. The fact remains that the petitioner is paying property tax as per the pre-assessment made prior to the issuance of the impugned notices. However, the assessment of property tax undoubtedly is to be made strictly in accordance with the provisions contemplated and by following the guidelines issued under the Statute and the Rules.

5.Inspections are to be conducted, buildings constructed are to be measured and assessment of property tax is to be made in accordance with the procedures. In the present case, even the final assessment order has not been passed, only a demand notice is issued and the petitioner has filed the present writ petitions. Under these circumstances, this Court is of an opinion that the respondents are bound to pass a final assessment order and after passing a final assessment order, if the petitioner is aggrieved, then he is at liberty to approach the appellate authority for the purpose of redressing his grievances.

6.The property tax assessment with reference to the documents and inspection are to be made by the competent authority and the appellate authority is the best person to form an opinion regarding the facts and circumstances. The appellate authority is the final fact finding authority. High Court cannot entertain such disputed issues with reference to documents and evidences. Such an exercise cannot be done in a writ proceedings. Thus, the petitioner has to co-operate for the final assessment of property tax by the competent authorities of the Salem Corporation and after final assessment, if any grievances exists, thereafter, the petitioner is at liberty to prefer an appeal as contemplated under the provisions of the Act.

7.Exhausting the appeal remedy is also of paramount importance and the legislative intention for providing an appeal remedy is to redress the grievances of the aggrieved persons. Thus the importance of the appeal remedy cannot be undermined and it is to be exhausted in view of the fact that the fact finding made by the original authority as well as the appellate authority would be of assistance to the High Court for the purpose of exercise of powers on judicial review under Article 227 of the Constitution of India. Thus, the rule is to prefer an appeal and the aggrieved persons are bound to exhaust the appeal remedy for the purpose of redressal of their grievances.

8.The petitioner is at liberty to submit the Government Orders he relied upon and all other relevant documents to the respondents enabling them to consider and take a decision in respect of the final assessment and thereafter, he is at liberty to prefer an appeal, if he is aggrieved in respect of the decision taken in the manner known to law. However, the petitioner has to pay the property tax as assessed and if at all any excess payment is made, the same is to be adjusted towards future property tax which is to be paid.

9.With these observations, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

10.The second respondent is directed to conduct the inspection of the buildings belongs to the petitioner within a period of two weeks from the date of receipt of a copy of this order in the presence of the petitioner or his authorized representative and thereafter, pass an assessment order and communicate the same to the writ petitioner within a period of four weeks from the date of inspection. The assessment of tax is to be paid by the petitioner within a period of four weeks from the date of passing of the assessment order. The petitioner is at liberty to submit all the documents to the second respondent within a period of two weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

cse

To

1. The Secretary to Government,
   Municipal Administration and Water
   Supply Department, Fort St. George,
   Chennai-600 009.

2. The Commissioner,
   Salem Corporation,
   Salem.

+2cc to Mr.B.Vijay, Advocate,Sr.31509.
+1cc to Government Pleader,Sr.32009

W.P.Nos.32414 & 32415 of 2016

LN[co]
NSK 03/08/2021