IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.2271 of 2022
and
W.M.P.No.2451 of 2022

A.S.Vijaya Babu ... Petitioner

Vs.

1. The Commissioner,
   Greater Chennai Corporation,
   Chennai - 3.

2. The Revenue Officer,
   Revenue Department,
   Zone - 9, Greater Chennai Corporation,
   Chennai- 34.

3. The Tax Collector,
   Division - 115,
   Zone - 9, Greater Chennai Corporation,
   Chennai - 34. ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 2nd respondent to dispose the petitioner appeal dated 09.08.2019.

For Petitioner : Mr.D.Vijayakumar

For Respondents : Ms.S.Vaithieswari
Standing Counsel

O R D E R

The prayer sought for herein is for a Writ of Mandamus to direct the 2nd respondent to dispose the petitioner appeal dated 09.08.2019.

2. The petitioner's property at the respondent Corporation was assessed for property tax and it was fixed at Rs.16,310/-, which amount to the petitioner claimed to have been paid without any default.

3. When that being so, the said property tax has been re-assessed and revised property tax has been fixed at

Rs.38,805/-, by thus, there has been an increasement of 138% of the existing tax.

4. As against the said increase/revision, the petitioner preferred an appeal before the 2nd respondent on 09.08.2019, however, the said appeal is yet to be decided.

5. In the meanwhile, the 3rd respondent, being the Tax Collection Officer, is insisting upon the petitioner to pay the tax due based on the revised tax. Only in that circumstances, the petitioner has approached this Court by filing the present writ petition with the aforesaid prayer.

6. Reiterating the aforestated, the learned counsel appearing for the petitioner would submit that, if a direction is given to the 2nd respondent to decide the appeal on merits within a time frame and till such time, the 3rd respondent may be directed not to insist upon payment of tax due or arrear as per the enhanced quantum of the tax, the petitioner would be satisfied.

7. Heard Ms.S.Vaitheeswari, learned Standing Counsel appearing for the respondents, who would submit that, if at all any appeal has been field, as claimed by the petitioner to the 2nd respondent Appellate Authority, that too, in the year 2019, certainly, that appeal would be considered and decided on merits within a time frame that may be stipulated by this Court. However, merely because, the appeal has been filed by the petitioner, the 3rd respondent Tax Collecting Authority cannot be precluded from taking steps to collect the tax due payable by the petitioner even according to the enhanced tax, she contended.

8. It is also brought to the notice of this Court by the learned Standing Counsel appearing for the respondents that, the appeal claimed to have been filed dated 09.08.2019 is not a proper appeal in the format, instead, it is only a representation. Therefore, in order to presume the said representation as an appeal, the petitioner may be directed to give a proper appeal in proper format, which would be disposed of immediately.

9. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

10. In fact, the petitioner has made an appeal in August, 2019, therefore, more than two years the appeal is yet to be disposed, hence, a direction can be given to the 2nd respondent Appellate Authority to decide the appeal on merits. At the same time, unless and until, the appeal is decided one way or other, where, there may be a chance of modification of the revision made by the original Assessing Authority, by the Appellate Authority, at this juncture, claiming the tax due

based on the revised tax may not be justifiable. Therefore, this Court is inclined to dispose of this Writ Petition with the following orders:

(i) That the petitioner is hereby directed to give proper appeal in the format available, instead of 09.08.2019 representation to the 2nd respondent, within a period of two weeks from the date of receipt of a copy of this order.

(ii) That the 2nd respondent is directed to decide the appeal filed by the petitioner with regard to the property tax revision made in 2018-19 against the petitioner property from Rs.16,310/- to Rs.38,805/- and pass orders therein on merits and in accordance with law within a period of four weeks from the date of receipt of such appeal. Till the disposal of the said appeal, the respondents, especially, the 3rd respondent is precluded from demanding any tax arrears as per the revised tax. It is made clear that, insofar as the existing tax i.e., pre-revised tax is concerned, the petitioner shall pay without any default.

11. With these directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Sp/Sgl

To

1. The Commissioner,
Greater Chennai Corporation, Chennai – 3.

2. The Revenue Officer,
Revenue Department,
Zone – 9, Greater Chennai Corporation, Chennai- 34.

3. The Tax Collector, Division – 115,
Zone – 9, Greater Chennai Corporation, Chennai – 34.

+1cc to M/s.S.Vaithieswari, Advocate SR. No.9439
+1cc to Mr.D.Vijayakumar, Advocate SR. No.9388

SRA (CO)
PR (24/02/2022)