IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2022

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.9943 of 2022
and
W.M.P.No.9668 of 2022

C.Mohammed Ilyaas ... Petitioner

Vs

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

2.The Revenue Officer,
Greater Chennai Corporation,
Rippon Building,
Chennai – 600 003.

3.The Assistant Revenue Officer,
Greater Chennai Corporation,
Zone X, Kodambakkam,
Chennai – 600 024.

4.The Managing Director,
Chennai Metropolitan Water Supply and
Sewage Board,
1, Pumping Station Road,
Chintadripet, Chennai – 600 002.

5.The Assistant Engineer,
Chennai Metropolitan Water Supply
and Sewage Board,
15, VV Koil Street,
Saidapet, Chennai – 600 015. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents herein to revise the Property Tax, water Tax and water Charges in respect of the Petitioner's building bearing Door No.44/8, Jeenis Road, Saidapet, Chennai-600 015 pursuant to the Petitioner representation dated 22.03.2022.

For Petitioner : Mr.S.Thirumavalavan

For Respondents : M/s.S.Vaitheeswari
Standing Counsel

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the respondents herein to revise the Property Tax, water Tax and water Charges in respect of the Petitioner's building bearing Door No.44/8, Jeenis Road, Saidapet, Chennai-600 015, pursuant to the petitioner's representation dated 22.03.2022.

2. The petitioner is the owner of the property at Door No.44/8, Jeenis Road, Saidapet, Chennai 600 015.

3. In respect of the said property, it is the case of the petitioner that, property tax had been paid up to 2nd half of the Assessment Year 2017-18 i.e., II/2017-18.

4. In respect of the property tax for the period I/2018-19 and II/2018-19 is concerned, some show cause notice by the Corporation has been issued to the petitioner and when an inspection has taken place, it is the case of the petitioner that, they have informed that the shops let out have already been vacated by the tenants and it had been kept closed.

5. Despite this position, according to the petitioner's counsel Mr.S.Thirumavalavan, since they have not revised the property tax properly and no revision of property tax has been served on the petitioner, now only by way of SMS alert, demand has been made and no communication to that effect has also been made by the Revenue to the petitioner.

6. In this context, the learned counsel for the petitioner points out that, explaining this position, on 22.02.2019 a detailed representation has been given to the respondent/Corporation, followed by another representation recently given dated 22.03.2022, but both these representations are not considered. In between, some requests had been made by the petitioner to the respondent/Corporation, but they have not so far been considered. However, they continued to send the SMS alert only for making demand to pay the tax. Therefore, the learned counsel for the petitioner submits that, the petitioner seeks indulgence of this Court to issue a direction by way of Mandamus, to consider those representations and to pass orders, after giving an opportunity of being heard of the petitioner. Thereafter, revised order of property tax can be passed by the Corporation, followed by the demand for recovery of the tax can also be taken.

7. I have heard Ms.S.Vaitheeswari, learned Standing Counsel, who would submit that, pursuant to the earlier orders passed, generally with regard to the revision of property tax it was undertaken by the

respondent/Corporation and subsequently, for some reasons, it was withdrawn and thereafter, again revision has been made and insofar as the petitioner is concerned, from the Assessment Year 2018-19 onwards, admittedly, property tax has not been paid. In this regard, if at all the petitioner is having any grievance with regard to the property tax assessed for the premises of the petitioner, and portion of which, according to the petitioner, have not been let out and it has been kept closed, a report or intimation to that effect should be given to the Corporation. Without giving any such information, the petitioner cannot expect that a revised order of assessment would be passed and therefore, on that ground, the petitioner cannot seek any indulgence of this Court, she contended.

8. I have considered the said rival submissions made by the learned counsel appearing on both sides and have perused the materials placed before this Court.

9. Insofar as the petitioner's grievance is concerned, with regard to the half year for assessment of property tax for Assessment Year 2018-19 and thereafter onwards it is the case of the petitioner that, most portion of

the property in question has been kept closed and in this regard, representation was given on 22.02.2019 and the same has not been considered. Latest representation dated 22.03.2022 also had been given, that also has not been considered. Demand by way of SMS Alert only has been issued by the respondent/Corporation. Therefore, it triggered the petitioner to come before this Court to seek a Writ of Mandamus.

10. In this context, whether the plea raised by the petitioner that, portion of the property has not been let out and it has been closed or kept closed for the purpose of waiver for the relevant period concerned, has to be decided by the respondent/Corporation, after considering the representation given in this regard by the petitioner, of-course, by giving an opportunity of being heard and therefore, it is open to the Corporation to revise the property tax and accordingly, revised tax can be levied and collected from the petitioner.

11. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

(i) That there shall be a direction to the respondent/Corporation to consider the representation of the petitioner earlier submitted on 22.02.2019 and latest by 22.03.2022 and pass orders thereon on merits and in accordance with law by giving an opportunity of being heard to the petitioner.

(ii) In this regard, further vacancy report can also be obtained from the petitioner by way of additional input and if need arises, a spot inspection can also be undertaken by the respondent/Corporation with their officials.

(iii) After completing this exercise, final orders may be passed, disposing these representations and accordingly, the respondent can act upon further towards levying of property tax and to recover the same.

(iv) The needful as indicated above shall be undertaken by the respondent/Corporation within a period of four weeks from the date of receipt of a copy of this order.

(v) Till such time, no further coercive steps shall be taken to recover the alleged tax due.

12. With these directions and observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

25.04.2022

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Internet : Yes / No
Index : Yes / No
Speaking order : Yes / No

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R. SURESH KUMAR, J.

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