IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.05.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.13258 OF 2022
&
W.M.P.NO.12567 OF 2022

Mrs.B.Dhanalakshmi ... Petitioner

.Vs.

1. The Commissioner,
   Corporation of Chennai,
   Rippon Buildings,
   Chennai - 600 003.

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

3. The Assistant Revenue Officer,
   Zone VII, Ward 87,
   M.T.H. High Road,
   Ambattur, Chennai - 600 053. ... Respondents

PRAYER:-

Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the records leading to the impugned final assessment order dated 12.05.2022 passed by the 3rd respondent in Notice No.10/22-23/556661 styled as Notice 10 - Final Assessment and quash the same.

For Petitioner : Mr.S.R.Varun Karthik

For Respondents : Mr.P.Manoj Kumar
Standing Counsel
(Greater Chennai Corporation)
For R1 to R3

O R D E R

The writ on hand has been instituted questioning the validity of the property tax assessment order dated 12.05.2022.

2. The petitioner states that she is the proprietor of Lakshmi Bala Theatre in Paadi and she is possessing valid 'C' form licence. The theatre was constructed in the year 1985 with a seating capacity of 650 seats. During the year 2007, the petitioner had put up a mini theatre under the name and style of Sri Bala Theatre with a seating capacity of 220 seats. Subsequently, in the year 2009, the balcony of Lakshmi Bala Theatre was converted as a mini theatre with a seating capacity of 150 seats. The total constructed area of the theatre complex is approximately 6850 square feet and the land area over which theatre is built is 8 grounds.

3. The learned counsel appearing on behalf of the writ petitioner mainly contended that the assessment of property tax was not made in accordance with the procedure and further, the final assessment was made without considering the objections raised by the writ petitioner. In other words, it is contended that the facts and circumstances established and the grounds raised by the assessee were not considered by the competent authority, namely, the Deputy Commissioner and therefore, the impugned order is liable to be set aside.

4. The learned Standing Counsel appearing on behalf of the respondent Corporation objected the said contention by stating that the final assessment notice was issued on 12.05.2022 and thereafter, the petitioner was provided with a reasonable opportunity and finally, the assessment order was passed. As against the said order, the petitioner has got an appeal remedy under the provisions of Chennai City Municipal Corporation Act, 1919 and she has to approach the Appellate Tax Tribunal for redressal of her grievance. Without exhausting the said remedy, the petitioner has approached this Court and therefore, the writ petition is liable to be dismissed.

5. Heard the submissions made by the learned counsel on either side.

6. This Court is of the considered opinion that the power of judicial review under Article 226 of the Constitution of India is to ensure the processes through which the decision is taken by the competent authority are in accordance with the statutes and rules in force, but not the decision itself. Thus, an aggrieved person, in respect of the property tax assessment order, has to exhaust the appellate remedy contemplated under the Act. Exhausting the statutory remedy, under no circumstance, to be

undermined by the High Court in view of the fact that the findings of the Tribunal would be of greater assistance to the High Court for the purpose of exercising the power of judicial review under Article 226 of the Constitution of India. In the absence of any such finding, the High Court would not be in a position to conduct a roving enquiry in respect of the manner in which the assessment is made by the authority competent. The Tribunal is empowered to look into the original files and the method of calculation adopted with reference to the extent of the building and other aspects of the matter. Contrarily, such an exercise cannot be done by the High Court under Article 226 of the Constitution of India. Therefore, the petitioner has to exhaust the statutory remedy contemplated under the aforesaid Act, which is of paramount importance.

7. In the present case, the property tax assessment order has been passed by the Deputy Commissioner. In view of the facts and circumstances of the case, the petitioner is at liberty to file an appeal before the competent authority/Tribunal for redressal of her grievance. In the event of such appeal being filed, the authority competent/Tribunal is empowered to adjudicate the issues on merits and in accordance with law, by affording an opportunity to all parties concerned and pass orders as expeditiously as possible.

8. The writ petition is disposed of with the above directions. No costs. Connected W.M.P. is closed.

Sd/-
Vacation Officer

//True Copy//

Sub Assistant Registrar

nv/sp

To

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

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Ambattur, Chennai - 600 053.

+2ccs to Mr.P.Manoj Kumar, Advocate, S.R.No.31722

W.P.NO.13258 OF 2022

SR(CO)
PBS/30/05/2022