IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	02.12.2021
Pronounced on	25.02.2022

CORAM
THE HONOURABLE MR.JUSTICE C.SARAVANAN
W.P.Nos.13925 of 2020, 5088 of 2021 and 12322 of 2020
and
W.M.P.Nos.17303 of 2020, 5662 of 2021 & 15137 of 2020

W.P.No.13925 of 2020:-
Woodlands Theatre,
Rep. By its Managing Partner,
Mr.N.Venkatesh,
No.23, (10A) West Cott Road,
Royapettah,
Chennai - 600 014. ...Petitioner

Vs.

1.The Revenue Officer,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.

2.The Regional Deputy Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.

3.The Zonal Officer,
Zone 09 (Ambattur),
Corporation of Chennai,
CTH Road,
Ambattur,
Chennai - 600 053.

4.The Assistant Revenue Officer,
Zone-9/Revenue Department,
Greater Chennai Corporation,
No.1, Lake View Area, 4th Cross Street,
Nungambakkam, Chennai - 600 034. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records leading to the demand notice dated Nil, issued by the fourth respondent titled G.C.C.R.D.

Property Tax-current demand arrears demand for 1/2020-2021 in respect of the Woodlands Theatre owned by the petitioner at Old No.10A, New No.23, West Cott Road, Royapettah, Chennai – 600 014 and quash the same.

For Petitioner : Mr.C.Jagadish
For Respondents : Mrs.P.T.Ramadevi
Standing Counsel

W.P.No.5088 of 2021:-
M/s.Palson Enterprises,
Rep. by its Managing Partner,
SP.Palaniappan,
Office at No.91/92, Nehru Street,
Chennai – 600 083. ...Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai – 600 003.

2.The Assistant Revenue Officer,
Zone 'X'
Corporation of Chennai,
Chennai. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records leading to the impugned final warrant notice dated 12.02.2021, issued by the second respondent in his proceedings in செ.ம.அ.வ.து/சிறப்பு/20-0 and quash the same.

For Petitioner : Mr.C.Jagadish
For Respondents : M/s.S.Vaitheeswari
Standing Counsel

W.P.No.12322 of 2020:-
M/s.Palson Enterprises,
Rep. by its Managing Partner,
SP.Palaniappan,
Office at No.91/92, Nehru Street,
Chennai – 600 083. ...Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,

Ripon Buildings,
Chennai – 600 003.

2.The Assistant Revenue Officer,
Zone 'X'
Corporation of Chennai,
Chennai. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the respondents from any manner collecting the property tax over and above the existing half yearly property of Rs.49,095/- in respect of the petitioner's premises as per G.O.Ms.No.150, dated 19.11.2019 and without following due process of law for revision of property tax as contemplated under the Chennai City Municipal Corporation Act, 1919.

For Petitioner : Mr.C.Jagadish
For Respondents : Mrs.P.T.Ramadevi
Standing Counsel

COMMON ORDER

W.P.No.13925 of 2020 has been filed by the Woodlands Theatre challenging the enhancement of property tax. It is the case of the petitioner that all along the petitioner has paid the half yearly property tax of Rs.1,17,347/- which was enhanced to Rs.5,73,040/- in 2018-2019 and therefore, this Writ Petition has been filed for quashing the impugned demand notice.

2.The said Writ Petition is predicated on the ground that the demand has been made contrary to the Sections 100 & 138 of the Chennai City Municipal Corporation Act, 1919 read with Part I-A which deals with the Assessment of Property Tax. The learned counsel for the petitioner further submits that under similar circumstances, an order came to be passed in W.P.Nos.3080 & 3084 of 2020 on 06.08.2020, wherein, certain guidelines have been framed by this Court for being followed by the Authorities before revising the assessment. It is submitted that the respondents should have first sent a provisional assessment order proposing the enhancement of property tax and thereafter, called for objection and thereafter passed the final assessment order.

3.It is submitted that the aforesaid guidelines of this Court in the above case have not been followed. The learned counsel for the petitioner submits that the demand is unsustainable as the demand is also contrary to the decision of the Division Bench of this Court in Sanjai Gupta Vs. The Commissioner, Corporation of Chennai and another, 2009 (2) CTC 465, wherein, the Division Bench held that the question of filing an appeal will arise only after the order is passed and based thereon a demand is made.

4.In W.P.No.5088 of 2021 and W.P.No.12322 of 2020, it is case of the petitioner that the half yearly property tax of Rs.49,095/- for the theater run by the petitioner was enhanced by the respondents to Rs.4,49,995/-. Thus, a sum of Rs.8,53,278/- was the annual property tax for the theater. Therefore, the petitioner has filed W.P.NO.12322 of 2020 for forbearing the respondents from collecting the property tax over and above the existing half yearly property tax of Rs.49,095/- in respect of the petitioner's premises as per G.O.Ms.No.150, Municipal Administration and Water Supply (MA.IV) Department, dated 19.11.2019 and without following the due process of law for revision of property tax as contemplated under the Chennai City Municipal Corporation Act, 1919.

5.During the pendency of the Writ Petitions viz., W.P.Nos.13925 and 12322 of 2020, the second respondent in W.P.No.5088 of 2021 has issued impugned final warrant notice dated 12.02.2021. Challenging the same, W.P.No.5088 of 2021 has been filed.

6.Opposing the prayer in these Writ Petitions, the learned standing counsel for the respondents submits that the petitioners have an alternate remedy before the appellate authority under the provisions of the Chennai City Municipal Corporation Act, 1919 and therefore, there is no merit in these present writ petitions. It is therefore prayed that the Writ Petitions be dismissed.

7.Defending the demand of property tax for the theaters run by the respective petitioner, the learned Standing Counsel for the Chennai Corporation submits that the property tax was enhanced pursuant to the decision / resolution passed by the Council of the respondent Corporation on 08.12.2010 and therefore the demand is sustainable. It is submitted that substantiative provision for revising the property tax is under Section 99 read with Section 100 and Section 199 read with Section 138 and Part I-A to Schedule - IV of the Chennai City Municipal Corporation Act, 1919.

8.In this connection, a reference was made by the learned Standing Counsel for the respondent Corporation to Rule 3 of Part I-A to the Schedule – IV of the Act which reads as under:-

> ''3. The Commissioner shall assess the property tax having regard to, _
>
> (1) the annual value fixed for the building on the date immediate before the date of general revision of the property tax;
>
> (2) the property tax payable by the owner or the occupier on the basis of the particulars field in the return; and
>
> (3) the property tax payable by the owner or the occupier with reference to the guidelines, if any, issued by the council.''

9.It is submitted that though in the order dated 06.08.2020 passed by this Court in the case of Rukumani Theater in W.P.Nos.3080 & 3084 of 2020 a method has been prescribed, which is not contemplated under the provisions of the Chennai City Municipal Corporation Act, 1919. It is further submitted that the revision of property tax was based on the resolution of the Council of respondents Corporation and therefore there is no necessity to intimate before making such revision to any of the assess. It is therefore submitted that Writ Petitions are devoid on merits and therefore are liable to the dismissed. Alternatively, the petitioners have a remedy before the Taxation Appeals Tribunal.

10.The learned Standing Counsel for the Chennai Corporation submits that the property tax was enhanced pursuant to the decision / resolution passed by the Council of the respondents Corporation on 08.12.2010 and therefore, the demand is sustainable. It is submitted that substantiative provision for revising the property tax is under Section 99 read with Section 100 and Section 199 read with Section 138 and Part I-A to Schedule – IV of the Chennai City Municipal Corporation Act, 1919.

11.In this connection, a reference was made by the learned Standing Counsel for the respondents Corporation to Rule 3 of Part I-A to the Schedule – IV of the Act, which reads as under:-

> ''3. The Commissioner shall assess the property tax having regard to, _
>
> (1) the annual value fixed for the building on the date immediate before the date of general revision of the property tax;

(2) the property tax payable by the owner or the occupier on the basis of the particulars field in the return; and

(3) the property tax payable by the owner or the occupier with reference to the guidelines, if any, issued by the council.''

12.It is submitted that though in the order dated 06.08.2020 passed by this Court in the case of Rukumani Theater in W.P.Nos.3080 & 3084 of 2020, a method has been prescribed, which is not contemplated under the provisions of the Chennai City Municipal Corporation Act, 1919. It is further submitted that the revision of property tax was based on the resolution of the Council of respondents Corporation and therefore, there is no necessity to intimate before making such revision to any of the assessee. It is therefore submitted that Writ Petition is devoid of merits and hence are liable to the dismissed. Alternatively, the petitioners have a remedy in terms of Rule 14 of the aforesaid schedule before the Taxation Appeals Tribunal and therefore, the petitioners should workout the remedy.

13.In reply, the learned counsel for the petitioners submits that the demand pursuant to G.O.Ms.No.73 of 2018, Municipal Administration and Water Supply (MA.IV) Department, dated 19.07.2018 and G.O.Ms.No.76 of 2018, Municipal Administration and Water Supply (MA.IV) Department, dated 26.07.2018, have been kept in abeyance in terms of G.O.Ms.No.150 of 2019, Municipal Administration and Water Supply (MA.IV) Department, dated 19.11.2019 and this score also, there is no justification in demanding property tax from the petitioners. In this connection, a reference was made to the following cases:-

(i) Mr.V.Krishnamurthy Vs Revenue Officer, Corporation of Chennai and others, passed in W.P.Nos.4462 & 4465 of 2019 dated 18.02.2019.

(ii) M/s.Aruna Theatres & Enterprises Pvt. Limited, Represented by its Director, Chennai Vs The Commissioner, Corporation of Greater Chennai and others, passed in W.P.No.14595 of 2020 dated 03.02.2021.

(iii) M/s.Sri Devi Cinemas Pvt. Ltd., Represented by its Managing Director, Chennai Vs The Commissioner, Corporation of Greater Chennai and others, passed in W.P.No.17297 of 2020 dated 11.03.2021.

14.I have considered the arguments advanced by the learned counsel for the petitioners and the respondents.

15.As a matter of fact, an identical issue was considered in the last two cases cited by the learned counsel for the petitioners in M/s.Aruna Theatres & Enterprises Pvt. Limited, Represented by its Director, Chennai Vs The Commissioner, Corporation of Greater Chennai and others, passed in W.P.No.14595 of 2020 dated 03.02.2021 and M/s.Sri Devi Cinemas Pvt. Ltd., Represented by its Managing Director, Chennai Vs The Commissioner, Corporation of Greater Chennai and others, passed in W.P.No.17297 of 2020 dated 11.03.2021.

16.The operative portion of the order in M/s.Sri Devi Cinemas Pvt. Ltd. [supra] is reproduced below:-

> ''3. G.O.Ms.No.73 of 2018 had proposed an enhancement of rate of property tax at the rate of 50% and 100% in regard to residential and non-residential buildings respectively, but has been kept in abeyance by G.O.Ms.No.150 of 2019. Thus, no enhancement enhancement as per G.O.No.73 may be made till such time action as contemplated under G.O.No.150 of 2019, is taken to streamline and revamp the existing rates in force. However, this does not mean that the corporation cannot re-assess property tax in cases where there is an apprehension or basis for escapement of tax, in line with Section 108 of the Chennai City Municipal Corporation Act, 1919 or make fresh assessment, at the rates prevailing prior to G.O.No.73 of 2018.
>
> 4. In this case, since there have been no valid proceedings initiated for revision of assessment in line with Section 108 , the impugned communication is set aside as demands are the of water tax and sewerage tax that are consequential. This writ petition is allowed and connected miscellaneous petitions are closed. No costs.''

17.In the light of the above, these Writ Petitions deserve to be allowed in terms of the above decision of this Court. Accordingly, these Writ Petitions are allowed in terms of the above decision. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Revenue Officer,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.

2.The Regional Deputy Commissioner,
Corporation of Chennai,
Ripon Buildings,
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3.The Zonal Officer,
Zone 09 (Ambattur),
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No.1, Lake View Area, 4th Cross Street,
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5. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 003.

6. The Assistant Revenue Officer,
Zone 'X'
Corporation of Chennai,
Chennai.

+3 Ccs to Mr.C.Jagadish, Advocate sr 12973 to 12975.

W.P.Nos.13925 of 2020, 5088 of 2021 and 12322 of 2020

AJS(CO)
SP(14/03/2022)