IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	08.12.2021
Pronounced on	25.02.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.14330 of 2020
and
W.M.P.Nos.17795 & 17797 of 2020

1.H.Lakshmi
2.T.Padmanabhan ... Petitioners

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 08,
Corporation of Chennai,
Chennai.

4.The Assistant Revenue Officer,
Zone-8/Revenue Department,
Greater Chennai Corporation,
Chennai.

5.The Faith Multispeciality Hospital,
Rep. by its Authorised Signatory,
No.33/17, Sannathi Street, Villivakkam,
Chennai – 600 049. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the fourth respondent pertaining to the Notice of Current and Arrears

Demand, dated 18.08.2020, in Bill No.07816, issued by the fourth respondent, quash the same and also direct the respondents 1 to 4 to comply with the stipulations of Chennai City Municipal Corporation Act and also G.O.Ms.No.150, Municipal Administration and Water Supply (MA.IV) Department, dated 19.11.2019.

For Petitioners: Mr.Sharath P.Nair

For R1 to R4 : Mrs.P.T.Ramadevi
Standing Counsel

O R D E R

The petitioners have challenged the impugned demand notice dated 18.08.2020, demanding a sum of Rs.2,27,015/- as half yearly tax payable by the petitioners from first half of 2018-2019. The demand is confined for the period commencing from first half of 2018-2019 to first half of 2020-2021.

2.It is the case of the petitioners that the demand made by the respondents is contrary to the method prescribed for assessment under Sections 99 and 100 of the Chennai City Municipal Corporation Act, 1919 read with Schedule 4, Taxation Rules, Rule 4(6) of the aforesaid rules.

3.Opposing the prayer in this Writ Petition, the learned standing counsel for the respondents submits that the demand of property tax pertains to the property which is an unauthorized construction in respect of which the petitioners and the tenants have filed an appeal before the Government under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 and that the appeal is pending and the demand of property tax is to be justified in the light of Council Resolution No.784 of 2018 dated 18.09.2018 and therefore, there is no merit in the present writ petition. It is therefore prayed that the Writ Petition be dismissed.

4.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.

5.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.''

6.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.

7.By way of rejoinder, 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.

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

9.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.

10.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.''

11.In the light of the above, this Writ Petition deserves to be allowed in terms of the above decision of this Court. Accordingly, this Writ Petition is allowed in terms of the above decision. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

jen/smn2

To

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

2.The Regional Deputy Commissioner,
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Zone-8/Revenue Department,
Greater Chennai Corporation,
Chennai.

+1cc to Mr.Sharath P.Nair, Advocate SR.No.12841

W.P.No.14330 of 2020

EV(CO)
GMY(10/03/2022)