IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.28278 of 2019
and
W.M.P.No.27957 and 27958 of 2019

Saifuddin Abbas ...Petitioner

-Vs-

1. Government of Tamil Nadu
   Represented by the Principal Secretary
   Municipal Administration and Water Supply
   Department, Tamil Nadu Secretariat
   Fort St.George, Chennai 600 009.

2. The Commissioner
   Greater Chennai Corporation
   Rippon Buildings, Chennai 600 003.

3. The Assistant Revenue Officer (Zone V)
   Office of Greater Chennai Corporation
   Revenue Department, 61, Basin Bridge
   Road, Old Washermanpet, Chennai 600 021.

4. The Special Tahsildar / Revenue Recovery Area-V
   CMWSSB, Chennai Metro Water Supply and Sewerage
   Board, No.1,M.C.Road, Chennai 600 021.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the 3rd respondent bearing Notices No.Z.O.V.R.D.C.No.R1/SPL/2019 dated 06.05.2019 and 25.08.2019 and quash the same as ex facie illegal, invalid in law and as against the rules and regulations insofar as the tax alleged as due and arrears at Rs.1,40,662 and of past collections made therefor at Rs.50,000 for the period retrospective to G.O.73 dated 19.07.2018 as per receipt No.2018-2019 No.590564 dated 10.09.2018 being unsustainable in law and consequently direct the respondents to assess and determine afresh the tax payable on and from 2018-2019 in respect of property bearing New No.168 (Old No.48), Thambu Chetty Street, Chennai 600 001 in accordance with G.O.No.73 of Municipal

Administration and Water Supply, Government of Tamil Nadu dated 19.07.2018 read with the Government Statutory Notification and Orders and of Act 1919.

For Petitioner : Mr.K.S.Narayanan

For Respondents: Mr.S.Ravichandran,
Additional Government Pleader – for R1

Mrs.Karthika Ashok
Standing Counsel – for RR 2 and 3
Mr.M.Vijayakumar – for R4

O R D E R

The prayer sought for herein is for Writ of Certiorarified Mandamus calling for the records on the file of the 3rd respondent bearing Notices No.Z.O.V.R.D.C.No.R1/SPL/2019 dated 06.05.2019 and 25.08.2019 and quash the same as ex facie illegal, invalid in law and as against the rules and regulations insofar as the tax alleged as due and arrears at Rs.1,40,662 and of past collections made therefor at Rs.50,000 for the period retrospective to G.O.73 dated 19.07.2018 as per receipt No.2018-2019 No.590564 dated 10.09.2018 being unsustainable in law and consequently direct the respondents to assess and determine afresh the tax payable on and from 2018-2019 in respect of property bearing New No.168 (Old No.48), Thambu Chetty Street, Chennai 600 001 in accordance with G.O.No.73 of Municipal Administration and Water Supply, Government of Tamil Nadu dated 19.07.2018 read with the Government Statutory Notification and Orders and of Act 1919.

2. The petitioner is having property within the Corporation limit of respondent Chennai Corporation for which property tax has already been assessed and according the learned counsel for the petitioner, it has been paid properly for every half year.

3. However, from the year 2018 onwards, the guidelines for property tax to be assessed by way of general revision has been indicated by a Government Order in G.O.No.73 Municipal Administration and Water Supply Department dated 19.11.2018. Though in the said Government Order it was provided that such a general revision can be made prospectively with effect from current half year which means from second half year of 2018 in the urban local bodies as per the existing statutory provisions in the relevant urban Local Body Acts, according to the learned counsel for the petitioner the property tax has been put in for general revision with effect from 2014-15 and accordingly they calculated the arrears and demanded the same through their

communications dated 06.05.2019 and 25.08.2019. Challenging those communications, the present writ petition has been filed.

4. Learned counsel for the petitioner would point out that G.O.No.73 first of all gave right to the local bodies to go for general revision of property tax only prospectively ie., with effect from current half year ie., the second half year of 2018. Therefore, if at all any powers accrues or flows from G.O.No.73 that shall be executed only prospectively not retrospectively, whereas, here the general revision has been made in respect of the petitioner's property with effect from 2014-15. Therefore, such an assessment made in respect of the petitioner's property is illegal, he contended.

5. On the other hand, Mrs.Karthika Ashok, learned Standing Counsel appearing for the Chennai Corporation and Mr.S.Ravichandran, learned Additional Government Pleader appearing for the Government of Tamil Nadu would contend that, though G.O.No.73 was issued, subsequently while implementing the same certain difficulties were experienced, following which lot of representations have come and based on those representations, the Heads of Departments viz., Commissioner, Municipal Administration and Water Supply Department and Director of Town Panchayats had requested the Government to constitute a Committee to revisit the general revision of property tax assessment as contemplated under G.O.No.73 and till such time the said Government Order itself can be kept in abeyance.

6. Based on the said request by the Department Heads, the Government having accepted the same, issued a Government Order in G.O.No.150, Municipal Administration and Water Supply Department dated 19.11.2019, under which a four member committee was constituted to suggest the Government as to how the general revision of property tax can be given effect to and till such time G.O.No.73 was kept in abeyance.

7. Learned counsel for the respondents would further submit that, the recommendations submitted by the Committee were taken into account and before taking a conclusive decision, certain amendments required in the concerned Acts which govern or administer the local bodies also have been considered and ultimately only recently ie., on 30.03.2022 the Government has come forward to issue G.O.No.52, Municipal Administration and Water Supply Department dated 30.03.2022 under which, what is the revised rate of property tax comes under the Municipalities and Town Panchayats to be assessed by way of general revision and to be collected has been indicated with effect from 01.04.2022 and therefore from 01.04.2022 general revision would take place.

8. However, insofar as the past Government Orders are concerned, apart from the tax already levied on the petitioner's property, what is the law that is prevailing between 2014-15 and upto 31.03.2022 shall be taken into account, which includes the provisions of the Chennai City Municipal Corporation Act, and based on which if any revised assessment has to be made, that would be made and till such time the demand now issued which are impugned herein cannot be given effect to, they contended.

9. I have considered the rival submissions made by the learned counsel appearing for both sides and have perused the materials placed on record.

10. As has been rightly pointed out by the learned counsel for the petitioner, G.O.No.73 empowers the local bodies to go ahead with the general revision only from the second half year of 2018 and therefore assuming that the said Government Order was put in action that can be made prospectively only from the second half year of 2018 and not prior to that.

11. Here in the case in hand, it is the complaint of the petitioner that, from 2014-15 revision has been made retrospectively by citing G.O.No.73 and therefore that kind of retrospective revision is bad in law.

12. This position has to be accepted. Insofar as the subsequent period ie., 2018 to 2021 or upto 31.03.2022 is concerned, the situation seems to have been fluid as the Government has taken time to take a policy decision as to how the general revision has to be given effect to and accordingly they have now come forward to issue G.O.No.52 dated 30.03.2022 with effect from 01.04.2022.

13. However, prior to 01.04.2022 ie., upto 31.03.2022 how the property tax by way of general revision has to be undertaken necessarily has not been covered or decided under G.O.No.73. However, those revisions could be possible only under the provisions of the Act, where, if any such provision was expressly available for making a general revision or periodical revision of property tax, based on such provisions only the authorities can assess the properties covered under the concerned law governing the administration of the Municipal Corporation like the respondent ie., Chennai Corporation.

14. Therefore this Court feels that, insofar as the present demand made pursuant to the revision retrospectively with effect from 2014-15 may not stand in the legal scrutiny and the same has to be interfered with.

15. In the result, this writ petition is disposed of with the following order.

- The matter is remitted back to the Chennai Corporation for reconsideration.

- While reconsidering the same, the afore stated legal position shall be borne in mind by the respondent Corporation and the period upto 31.03.2022 shall be taken into account only as per the existing law and not necessarily under G.O.No.73. Based on the existing law other than G.O.No.73 if any revision or general revision or periodical revision is possible, the respondent Corporation is free to go ahead with that. If such general revision or periodical revision is not possible for the said period, such a revision may not be made.

16. With the above observations and directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed. In the meanwhile, if any extra amount is paid based on the impugned assessment, the same if at all to be adjusted in the future payment, can be adjusted by the respondent Corporation.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KST

To
1. The Principal Secretary
Government of Tamil Nadu
Municipal Administration and Water Supply
Department, Tamil Nadu Secretariat
Fort St.George, Chennai 600 009.

2. The Commissioner
Greater Chennai Corporation
Rippon Buildings, Chennai 600 003.

3. The Assistant Revenue Officer (Zone V)
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4. The Special Tahsildar / Revenue Recovery Area-V
   CMWSSB, Chennai Metro Water Supply and Sewerage
   Board, No.1,M.C.Road, Chennai 600 021.

+1cc to Mr.K.S.Narayanan, Advocate, S.R.No.25154
+1cc to Mrs.Karthika Ashok, Advocate, S.R.No.25232
+1cc to the Government Pleader, S.R.No.25786

W.P.No.28278 of 2019

NK[co]
NSK/29/06/2022