BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.6040 of 2022
and
W.M.P(MD) No.4717 of 2022

A.Mahabubasha ... Petitioner

Vs.

The Commissioner,
Municipality Office,
Shenkottai,
Tenkasi District. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent's proceeding dated 20.03.2022 and quash the same as illegal, incompetent, unconstitutional and consequently direct the respondent to revise the levy of tax on the petitioner's property assessment No.14855 situated in D.No.109/23-0, Gandhi Road, Shenkottai, Tenkasi District within a period stipulated by this Court.

For Petitioner : Mr.M.Mohamed Sherbudeen
For Respondent : Mr.P.Athimoolapandian

ORDER

It is the case of the petitioner when the petitioner purchased the property, the said property was assessed tax at Rs.218/- for first half year 2003-2004 and thereafter, increased to Rs.682/- for second half year. It is submitted that the shops in the neighbouring area are being assessed to tax at much lower rate and therefore, there is a discrimination. It is submitted that the petitioner has sent several representations, despite the representation of the petitioner has not been considered.

2. Under these circumstances, the petitioner has filed this writ petition for a writ of Certiorarified Mandamus to quash the impugned demand notice, dated 20.03.2022 asking the petitioner to pay arrears of property tax under the provisions of the Tamil Nadu District Municipalities Act, 1920 for a sum of Rs.42,994/- for a period between 2012-2013 and 2021-2022.

3. Opposing the prayer, the learned counsel for the respondent submits that from the year 2004 to 2012, the petitioner has paid the tax that was determined and demanded. It is further submitted that the petitioner had also filed an appeal before the Commissioner which came to be rejected on 12.04.2013. Thereafter, the petitioner has filed an appeal before the Taxation Appeals Committee constituted under Section 23 A of the Tamil Nadu District Municipalities Act, 1920 read with Schedule IV, Taxation and Financial Rule, Part I, which contemplates the machinery for filing an appeal. It is submitted that the petitioner has not filed an appeal and has been in arrears of tax from 2012-2013.

4. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent.

5. The petitioner has paid the property tax, that was assessed and demanded for a sum of Rs.682/- up to the period ending second half of 2011-2012. However, between 2012-2013 and 2020-2021, the petitioner has not paid tax by citing that the neighbours are paying lesser rent. Whether the neighbours are paying lesser rent or not cannot determined in this proceeding. However, if the neighbours indeed paying lesser rent for similar property, the petitioner is also entitled for a non-discrimination levy.

6. Considering the same, I am inclined to dispose this writ petition at the time of admission by giving liberty to the petitioner to file a statutory appeal before the Taxation Appeals Committee in terms of the aforesaid Rules, Schedule IV of the Act within a period of 30 days from the date of receipt of copy of this order subject to the petitioner paying the amount demanded vide impugned demand notice, dated 20.03.2022 within such period. The arrears of rent should be paid by the petitioner immediately which shall be treated as a deposit and appropriated subject to the final outcome of the appeal to be filed by the petitioner. The respondents are directed to de-seal the shop, which has been sealed on the petitioner paying the aforesaid amount. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The Commissioner,
Municipality Office,
Shenkottai,
Tenkasi District.

+1 CC to M/s.M.MOHAMED SHERBUDEEN, Advocate (SR-16274[F] dated 04/04/2022)

W.P(MD).No.6040 of 2022
04.04.2022

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