BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).Nos.13203 to 13205 of 2022
and
W.M.P(MD).Nos.9378, 9379 and 9381 of 2022

W.P(MD).No.13203 of 2022

R.Illankovan ... Petitioner

Vs.

1.The Commissioner,
Madurai City Municipal Corporation,
Madurai-625 002.

2.The Assistant Commissioner,
Zone II, Madurai City Municipal Corporation,
Madurai-625 002. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned demand notice dated 06.11.2021, demanding a sum of Rs.41,78,467/- from the petitioner on the basis of the old Tax Assessment No.115/392880 and new Tax Assessment No.115/042/02906 as property tax arrears for the petitioner's building at Basement No.I, Door No.31, Gokhale Road, Madurai and quash the same.

For Petitioner : Mrs.L.Krishnaveni
Senior Counsel
For Mr.P.Thiyagarajan
For Respondents : Mr.K.K.Kannan
Standing Counsel

W.P(MD).No.13204 of 2022

R.Illankovan ... Petitioner

Vs.

1.The Commissioner,
Madurai City Municipal Corporation,
Madurai-625 002.

2.The Assistant Commissioner,
Zone II, Madurai City Municipal Corporation,
Madurai-625 002. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned demand notice dated 06.11.2021, demanding a sum of Rs.48,39,808/- from the petitioner on the basis of the old Tax Assessment No.115/392881 and new Tax Assessment No.115/042/02907 as property tax arrears for the petitioner's building at Basement No.II, Door No.31, Gokhale Road, Madurai and quash the same.

For Petitioner : Mrs.L.Krishnaveni
Senior Counsel
For Mr.P.Thiyagarajan
For Respondents : Mr.K.K.Kannan
Standing Counsel

W.P(MD).No.13205 of 2022

M/s.Vishaal Promoters Pvt Ltd
Rep.by its General Manager,
S.Senthil Kumar ... Petitioner

Vs.

1.The Commissioner,
Madurai City Municipal Corporation,
Madurai-625 002.

2.The Assistant Commissioner,
Zone II, Madurai City Municipal Corporation,
Madurai-625 002. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned demand notice dated 06.11.2021, demanding a sum of Rs.33,10,504/- from the petitioner on the basis of the old Tax Assessment No.115/392883 and new Tax Assessment No.115/042/02909 as property tax arrears for the petitioner's building's terrace portion at Door No.31, Gokhale Road, Madurai and quash the same.

For Petitioner : Mrs.L.Krishnaveni,Senior Counsel
For Mr.P.Thiyagarajan
For Respondents : Mr.K.K.Kannan
Standing Counsel

COMMON ORDER

The petitioner is the owner of the shopping mall challenging the three demand notices, all dated 06.11.2021.

2. The learned counsel for the petitioner submits that the petitioner received three demand notices for Basement No.I, Basement No.II and Terrace for an exorbitant amount. The petitioner earlier filed an appeal before the Tribunal in the year 2016. For the past six years, the appeal is pending. According to the petitioner, the petitioner got good case in appeal. The monthly rental value for terrace was calculated as Rs.1,43,937/-. In the terrace except for putting up a solar panel and generator, it is not used for any other commercial use. As regards Basement No.I and Basement No.II, the monthly rental value was calculated as Rs.2,10,860/- and Rs.2,44,728/- respectively, which is also higher. Based on this rental value, the tax calculated at the rate of Rs.3,44,726/- for Basement No.1, Rs.4,00,176/- for Basement No.II and Rs.2,75,042/- for terrace. For the past six years, the Corporation kept quiet and suddenly, now issued the demand notice on 06.11.2021 making a demand of Rs.1,22,91,119/-. The petitioner on receipt of the notice paid Rs.40,00,000/- towards tax amount. The contention of the petitioner is that the demand is unreasonable. In the appeal, the petitioner has fair chance to succeed. For the delay in disposing the appeal, the petitioner cannot be penalised.

3. The learned Standing Counsel for the respondents submits that the petitioner is running a shopping mall in Madurai. The petitioner made substantial income through the rent but failed to make payments to the corporation tax. The petitioner may have objections, payment of tax cannot be deferred or delayed. If at all the petitioner has any grievances, he has to pay the tax and thereafter make a claim. In this case, after filing the appeal in the year 2016, for the past six years, the petitioner not paid any tax and enjoyed the entire rental income. Further, the Corporation faces great difficulty unable to manage its finance. The petitioner being owner of shopping complex, the payment of tax to the corporation is very much required for its function, sanitary and development activities. Further, during the Covid-19 pandemic period, the Corporation suffered huge expenditure in taking steps to control the pandemic through its health department and sanitary workers. The petitioner receiving huge income denied the tax payment of Corporation. He further submits that in the tribunal there are 36 cases pending, within a short period, if the petitioner co-operates, the appeal can be disposed of.

4. The learned counsel for the petitioner at this stage submits that the delay is not on their part. She further submits that the petitioner already paid Rs.40,00,000/- and now, the petitioner is willing to pay a sum of Rs.20,00,000/- within a period of two weeks.

5. In view of the same, The petitioner is directed to pay other sum of Rs.20,00,000/- within a period of two weeks from the date of receipt of copy of this order. The respondent is directed to dispose the appeal within a period of two months thereafter. The petitioner and respondents shall make all endeavour to complete the appeal by two months.

6. These writ petitions stand disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Commissioner,
Madurai City Municipal Corporation,
Madurai-625 002.

2.The Assistant Commissioner,
Zone II, Madurai City Municipal Corporation,
Madurai-625 002.

+3 CC to M/s.K.K. KANNAN, Advocate (SR-27921,SR-27919,SR-27920 dated 24/06/2022)

+1CC to M/s.P.Thiyagarajan,Advocate(SR.No.6118)

W.P(MD).Nos.13203 to 13205 of 2022
24.06.2022

MGJ(28.06.2022) 4P 7C