IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.10.2023
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.2257 of 2022
and
W.M.P.No.2430 of 2022

Miss. Ritu Dindayal,
...Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by Secretary to Government,
Municipal Administration and Water Supply Dept.
Secretariat Fort St.George, Chennai- 600 010.

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

3 The Asst. Revenue Officer,
Zone-10, Greater Chennai Corporation,
No.64, N.S.K. Salai
Kodambakkam, Chennai – 24
...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records from the file of the third respondent, comprised in the impugned notice no. 10/131/00517/000 in order bearing No.7/18-19/124544, dated 13.12.2018 and all proceedings pursuant thereto and to quash the same as illegal.

For Petitioner : Mr.Prahalad K.Bhat

For Respondent-1 : Mr.S.Ravikumar
Special Government Pleader

For Respondents 2 & 3 : Ms.K.Aswini
Standing Counsel

ORDER

The challenge in this Writ Petition is to the demand notice issued by the third respondent, Assistant Revenue Officer, Greater Chennai Corporation (hereinafter, referred to as the third respondent-Corporation) dated 13.12.2018

2, Today, when the Writ Petition is taken up for hearing, Mr.Prahalad K.Bhat, learned counsel appearing for the petitioner submitted that very same issue came up for consideration before this Court, in W.P.No.21217 of 2021, and the same was disposed of vide order dated 01.10.2021, following the earlier decision taken in W.P.No.19544 of 2021, dated 15.09.2021. The learned counsel for the petitioner has also drawn the attention of this Court to the aforesaid order dated 01.10.2021, which is annexed at Page No.53 of Documents relied on by the petitioner for reference of this Court, in support of this Writ Petition and prays that, similar direction may be issued in the present Writ Petition as well.

3. Ms.K.Aswini, learned Standing Counsel for respondent-Corporation also fairly conceded that the issue involved in this Writ Petition is covered by a decision relied on by the petitioner, however, submitted in case of remanding the matter back to the respondent-Corporation for re-consideration, the petitioner may be directed to pay whatever the existing property tax before revision.

4. On a perusal of the order, dated 01.10.2021, it is seen that the issue involved and the relief sought for in the present Writ Petition is similar as to that of the issue considered in W.P.Nos.21217 of 2021 and the only distinction herein is that i) the impugned demand notice is a revised assessment notice. It would be beneficial to refer to the operative portion of the said order, which is reproduced as under:-

" **6.** In the light of the narrative thus far, following order is passed:-

a) Impugned notices dated 20.11.2018 bearing reference Notice Nos.7/18-19/122563 and 7/18-19/122570 are set aside;

b) Impugned notices are being set aside solely on the ground that the writ petitioner was not given an opportunity to object and therefore, no opinion or view has been expressed in this order on the merits of the matter;

c) Chennai Corporation shall redo the revision by following the procedure inter alia under Section 100 of The Chennai City Corporation Act, 1919, which was earlier known as The Madras City Municipal Act, 1919 and the Taxation Rules therein which forms part of Schedule IV thereunder. This will include putting the writ petitioner on notice and calling for objections from the writ petitioner;

d) Chennai Corporation shall complete the aforesaid exercise as expeditiously as possible and in any event within twelve(12) weeks from today i.e., on or before 24.12.2021;

e) Revision/enhancement can be from 1/2018-

2019 i.e., first half year of 2018-2019 meaning for the half year from 01.04.2018 to 30.09.2018;

f) Writ petitioner shall continue to pay half yearly property tax at the existing rate of Rs.24,103/- till this exercise is complete.

g) If there is any default in payment of half yearly property tax at the existing rate of Rs.24,103/- (pending above exercise), the legal consequences will follow de hors this order.

7. Writ petition disposed of with the above directions. Consequently, connected WMP is also disposed of as closed. There shall be no order as to costs. "

5. In the light of the above, this Court is of the view that the present Writ Petition can also be allowed, as in the present case also, the impugned demand notice has been issued without providing an opportunity to the petitioner.

6. Accordingly, the present Writ Petition is allowed, the impugned notice dated 13.12.2018 is set aside and the matter is remanded back to the third respondent-Corporation for re-assessment and the same shall be done after affording an opportunity of hearing to the petitioner and after considering the reply/objections filed by the petitioner. It is needless to say that the petitioner shall continue to pay half yearly property tax, which the petitioner used to pay before revision without any default. No costs. Consequently, connected Miscellaneous Petition is closed.

06.10.2023
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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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