IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2023

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THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.7412 & 8208 of 2020
and
W.M.P.Nos.8877 & 9790 of 2020

K.Raju ... Petitioner (in both W.Ps.)

Vs

1. The Assistant Commissioner,
   Salem Municipal Corporation,
   Hasthampatti Zone,
   Salem.

2. The Commissioner,
   Salem Municipal Corporation,
   Salem. ... Respondents (in both W.Ps.)

Prayer in W.P.No.7412 of 2020: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent herein in its proceedings under Ref.No.049/017/03575 bearing Old No.049/2218116 dated 10.01.2020 and quash the same.

Prayer in W.P.No.8208 of 2020: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records of the first respondent herein in its proceedings under Ref.No.049/017/03575 bearing Old No.049/2218239 dated 10.01.2020 and quash the same.

For Petitioners : Mr.P.B.Sampath Kumar
(in both W.Ps.)

For Respondents : M/s.N.Devi
Standing Counsel
(in both W.Ps.)

COMMON ORDER

By this common order both the writ petitions are being disposed of.

2.These two writ petitions have been filed by the same petitioner challenging two separate notice issued both dated 10.01.2020 for the Assessment Years 2015-2016 upto 2019-2020.

3. For the first four Assessment Years, property tax has been demanded retrospectively and for the Assessment Year 2019-2020, the amount has been demanded prospectively.

4. Both the learned counsel for the petitioner and the learned Standing Counsel for the respondents have made a submission that they will abide by the decision of this Court rendered in W.P.No.12287 of 2019 vide order dated 26.07.2019, wherein it has been held as under:-

> ***"19. In the aforesaid backdrop, the following order is passed:-***
>
> ***a) Impugned notice is set aside. To be noted, impugned notice is not set aside on merits. No opinion or view is expressed on merits and this setting aside is being done on the ground of undisputed non adherence to Rules and for the purpose of facilitating the writ petitioner to file returns in response to the aforesaid publicity given under Rule 4.***
>
> ***b) Learned counsel for writ petitioner, on instructions submits that writ petitioner will file returns within a fortnight from the date of receipt of a copy of this order. On instructions, it is submitted by learned Standing Counsel for Corporation that such returns shall be filed with the Assistant Commissioner of Salem Corporation, i.e., jurisdictional Assistant Commissioner of Zone/Ward concerned.***
>
> ***c) On aforesaid returns being filed, the impugned notice shall be redone and reissued afresh, after taking into account the returns and objections if any, contained in the returns.***

d) ***If writ petitioner does not file returns within a fortnight from the date of receipt of a copy of this order with the jurisdictional Assistant Commissioner of Salem Corporation, the impugned notice will stand revived without further reference to this Court.***
e) ***Redone/reissued notice shall be served on the writ petitioner under due acknowledgment within a fortnight from the date on which it is redone under due acknowledgment.***
f) ***Until the aforesaid exercise is completed, there shall be no coercive action or distraint proceedings against writ petitioner qua said property with regard to property tax, subject to the condition that writ petitioner continues to pay half yearly property tax at the existing rate of Rs.41,764/- (Rupees Forty One Thousand Seven Hundred and Sixty Four Only) without any default.***
g) ***On the aforesaid exercise being completed, if writ petitioner is not satisfied with the assessment made vide reissued notice, writ petitioner shall take recourse to statutory appeal by way of an appeal to the Taxation Appeals Tribunal under Rules 20 and 22 of Schedule II of Coimbatore Corporation Act.***
h) ***If such an appeal is preferred, the Taxation Appeals Tribunal shall deal with the appeal in accordance with law and in a manner known to law and this order will not impede such a legal course.***

5. In view of the above submission and the decision of this Court rendered in W.P.No.12287 of 2019 dated 26.07.2019, the Impugned Orders are set aside and the matter is remitted back for the petitioner to file necessary returns under Rule 4 of the Salem City Municipal Corporation Act, 1994. The respondent shall thereafter pass appropriate order in terms of the above decision of this Court.

6. These writ petitions stand disposed of with the above observations and directions. No cost. Consequently connected miscellaneous petitions are closed.

18.08.2023

Neutral Citation: Yes/No
Index : Yes/No
Speaking/Non-Speaking Order
rgm

C.SARAVANAN, J.

rgm

To

1. The Assistant Commissioner,
   Salem Municipal Corporation,
   Hasthampatti Zone,
   Salem.

2. The Commissioner,
   Salem Municipal Corporation,
   Salem.

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