IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.16040 of 2022
and
W.M.P.No.15377 of 2022

Shri.S.S.Radhakrishnan ... Petitioner

Vs.

The Assistant Revenue Officer,
Zone XIII (Adyar),
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai – 600 020. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order 06.10.2021 in Ma.Aa.13.Va.Thu.Na.Ka.No.R2/1268/2021 passed by the Respondent and quash the same as illegal.

For Petitioner : Mr.A.P.Srinivas
For Respondent : Mr.E.C.Ramesh
Standing Counsel

ORDER

This writ petition has been filed challenging the property tax assessment order passed by the respondent, dated 06.10.2021.

2. The case of the petitioner is that he is the owner of the property situtated at No.17, Customs Colony, 1st Cross Street, 4th Avenue, Besant Nagar, Chennai. Initially, the ground floor was used for residential purposes, thereafter, the petitioner constructed and additional space of 360 sq.ft. In the area left out in the ground floor and an Unit in the first floor for his legal consultancy work. The entire area in the ground floor measuring to an extent of 1588 sq.ft is used for residential purpose and the property tax fixed in respect of the said area has also been paid by the petitioner. However, the petitioner came to know though on-line status that entire ground floor has been treated as non-residential area and half yearly property tax has been increased from Rs.4,456/- to Rs.15,515/-. The petitioner sent letters informing about the classification of the entire ground floor as non-residential area is incorrect, however, the respondent passed the impugned order. Hence, the present Writ Petition.

3. Mr.A.P.Srinivas, learned counsel for the petitioner would submit that the petitioner made a self-declaration on 14.08.2018, that the ground floor of the building, measuring an extent of 664.37 sp.ft being used for residential purposes and remaining 473.13 sq.ft is used for non-residential purposes. Thereafter, the petitioner has sent a letter dated 18.08.2018 to the respondent

requesting the officials to reclassify the portion on the ground floor measuring to an extent of 473.13 sq,ft in the subject property as commercial. However, the petitioner to his shock found from the online status of his property tax assessment that the property tax in respect of entire ground floor measuring to an extent of 1588 sq.ft is treated as non residential and property tax has been enhanced from Rs.4,456/- to Rs.15,515/-. The learned counsel submitted that though the petitioner sent several letters to the respondent informing that the classification of the ground floor as non- residential is incorrect and also relied on an order passed by the Taxation Appeals Tribunal in T.A.T.No.513 of 2002, wherein, the Tribunal held that the Advocate's Office shall be treated as “Ownes Residence”, the respondent without considering all these facts passed the impugned order. Therefore, the learned counsel prays for quashing the impugned order.

4. Mr.E.P.Ramesh, learned Standing Counsel for the respondent produced a counter affidavit filed by the respondent dated 03.11.2023, (a copy of which has also been served on the petitioner) before this Court and submitted that upon assessment of the petitioner's property, it is found that at present, the area measuring to an extent of 1588 sq.ft has been divided in such a way that so many advocates can function in the name and style of “Agol

Associates Advocates and Consultants" and the remaining portion is functioning as Kitchen Garden and as such, the assessment has been made treating the entire ground floor of the petitioner's property as commercial one. Therefore, he submitted that this Writ Petition is liable to be dismissed.

5. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent and perused the materials placed on record.

6. It is seen that from the records that the petitioner is using 999 sq.ft for residential purpose and the remaining portion of 473.13 sq.ft for commercial purposes in the ground floor measuring total to an extent of 1588 sq.ft. In the present case, the Authorities have wrongly assessed the subject property entirely as non-residential and the assessment order has been passed, which shows the non-applicability of mind on the part of the concerned Officer, who had assessed the subject property.

7. Therefore, this Court is inclined to set aside the impugned order 06.10.2021 passed by the respondent. While setting aside the impugned order, this Court remands the matter back to the respondent for fresh consideration,

who is directed to consider the representation/application for revision of demand of the petitioner's dated 13.02.2021 and after providing an opportunity of personal hearing to the petitioner, shall pass appropriate orders in accordance with law.

8. In the result, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

07.11.2023

Jeni
Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order

To

The Assistant Revenue Officer,
Zone XIII (Adyar),
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai – 600 020.

KRISHNAN RAMASAMY, J.

Jeni

W.P.No.16040 of 2022

07.11.2023