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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2023

CORAM :

The HONOURABLE DR.JUSTICEANITA SUMANTH

W.P.No.14162 of 2020
and
W.M.P.Nos. 12341 of 2022, 17628 & 17630 of 2020

Madras Race Club
Rep. by its Secretary,
Post Box.No.2639,
Guindy, Chennai - 600 032. .. Petitioner

vs

1.Greater Chennai Corporation
Rep. by its Commissioner,
Ripon Buildings,
1131, Periyar E.V.R.Salai,
Park Town, Chennai -600 003.

2.Assistant Commissioner - XIII
Greater Chennai Corporation,
Zone - XIII,
No.15, Dr.Muthulakshmi Salai,
Adayar, Chennai - 600 020.

3.Assistant Revenue Officer - XIII
Greater Chennai Corporation
Zone - XIII,
No.15, Dr.Muthulakshmi Salai,
Adayar, Chennai - 600 020. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records of the 2nd respondent in issuing the impugned demand dated 23.09.2020 bearing No.Z.O.

XIII.RDC. No.R2 /0421/2019 demanding a sum of Rs.3,60,41,163/- and quash the same as illegal and arbitrary.

For Petitioner	:	Mr.Varun Venkatesan
For Respondents	:	Mr.Rahul Aditya for Mrs.P.T.Ramadevi Standing Counsel

ORDER

This is the second round of litigation by this petitioner challenging demands of property tax under the provisions of the Chennai City Corporation Act, 1919 (in short, 'Act').

2. In the instance, notices of demand of property tax had been challenged and those writ petitions had been disposed directing the petitioner to file objections and the authorities to consider the same and pass orders afresh. Impugned order dated 23.09.2020 has thus came to be passed as a consequence of the aforesaid order of this Court.

3. The impugned order is non-speaking and the entirety of the arrears has been quantified at a sum of Rs.3,60,41,163/- upto the first-half of 2021. No- break up has been given. At the time of admission, an interim order passed requiring the petitioner to pay the admitted taxes and granting a stay of the balance, enhanced amount, upon satisfaction of the aforesaid condition being satisfied.

4. It is the case of the respondents that even the admitted taxes have not been paid qua the 12 assessments in issue, for the period 2001 - 2002 to 2007 - 2008. Report dated 01.04.2023 has been filed by the

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Assistant Revenue Officer, Revenue Department, Zone – 13, Greater Chennai Corporation/R3 that reads as follows:-

> *"3. I respectfully submit that subject to the memo dated 28.03.2023, the petitioner herein had a disagreement regarding the arrears of admitted rates of property tax for 12 assessments, this Hon'ble Court had passed an order dated 29.03.2023 as follows:-*
>
> ***"...Though both learned counsel have filed memos, there is a conflict in regard to whether the admitted rates of property tax have been remitted by the petitioner.***
>
> ***2. In order to decide this, let the parties sit across the table and file a joint memo on the payments made (admitted taxes and not enhanced taxes) for the period upto today in respect of the twelve assessments that form the subject matter of this writ petition.***
>
> ***3. List on 03.04.2023 as item no.1 in the regular list..."***
>
> *4. I respectfully submit that based on the orders of this Hon'ble Court, a meeting was convened on 31.03.2023 at the petitioner's office. The admitted rates of old tax for 12 assessments from II/2001-2002 were handed over to the petitioner for perusal. The balance arrears of admitted rate of property tax for 12 assessments sums up to Rs.61,62,562/-.*
>
> *5. Further the petitioner contended that the rates for 3 assessments of property tax were substantially lower as per the Lok Adalat orders. The orders of the Lok Adalat dated 20.06.2023 was also enclosed along their representation dated 31.03.2023.*
>
> *6. I respectfully submit that even assuming without admitting that the orders of the Lok Adalat dated 20.06.2023 for 3 assessments of property tax are taken on record, the balance of admitted old property*

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tax still sums up to Rs.35,11,475/-. The tabular column is enclosed herewith.

7. I further submit that the petitioner has proposed to conduct a joint measurement of the areas and the nature of the properties to assess the property tax payable by the petitioner. This exercise of the joint survey can be conducted only when the admitted arrears of old property tax for 12 assessments is remitted by the petitioner as mentioned above.

It is therefore respectfully prayed that this Hon'ble Court to be pleased to record this report and pass such other further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

5. This matter has been pending since 2020 and even today, learned counsel for the petitioner is not in a position to produce payment of remittance of the admitted taxes. I am thus not inclined to keep the matter pending on the docket any further.

6. Order of this Court dated 07.10.2020 makes it clear that admitted period of tax ought to have been paid as a pre-condition for interim stay, reading thus:

"Mrs.P.T.Ramadevi, learned Standing Counsel accepts notice for the respondents and seeks some time to obtain instructions and file a counter.

2. The impugned order dated 23.09.2020 is a non-speaking order that contains no discussion in regard to the objections raised by the petitioner. After extracting the order passed in writ appeal, the Authority proceeds to merely set out the working sheet for 12 assessments without furnishing the basis of computation. The annexed computation sheets only set out basic details in regard to the property and contains no specific discussion as to why the rate

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of tax is to be varied vis-a-vis the annual value and the rental value fixed by the Lok Adalat as early as in 2003. No doubt, revision of rates is a periodic affair. However, such revision has to be carried out only after taking note of the objections of the assessee.

3.Learned counsel for the petitioner states that there are arrears of tax in regard to the periods 2018-19 and 2019-20. The arrears will be remitted within a period of two weeks from today upon compliance of which collection of the enhanced demand will remain stayed till the next date of hearing.

4.List on 18.11.2020. Counter by then with an advance copy served on the petitioner. Learned counsel for the petitioner will serve a copy of the writ petition and annexures upon learned counsel for the respondent forthwith to enable her to do so."

7. The stand of the petitioner is that it has obtained an order in the Lok Adalat on 20.06.2003 fixing a specific rate of tax in respect of the properties in question. According to respondents, that order of the Lok Adalat will be valid only the next general enhancement of property tax. In the present case, the General Revision was in the year 2010 and the petitioner is hence bound by the same. I agree that this is the correct position.

8. An order obtained in Lok Adalat on 20.06.2003 cannot bind the petitioner for all time. The litigation that culminated in the order by the Lok Adalat had its genesis in a demand for the earlier periods. That dispute was settled by the parties before the Lok Adalat and will hold the field till the next General Revision, valid till 2010. The petitioner will from then onwards be liable for the new rates.

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9. The admitted demands for the periods in question will be remitted by the petitioner forthwith. Thereafter, and strictly subject to the aforesaid remittance, let the break-up of the enhanced amount and the basis for enhancement be supplied to the petitioner, the petitioner heard, granted an opportunity to file objections and the assessments finalized within a period of twelve weeks thereafter. The parties are also permitted to inspect the properties prior to finalization of the assessment.

10. Writ petition stands dismissed as above. No costs. Connected miscellaneous petitions are closed.

03.04.2023

Index:Yes
Neutral Citation:Yes
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