IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.19807 of 2022

M.Palanisamy ... Petitioner

Vs.

The Commissioner,
Tiruppur City Municipal Corporation,
Tiruppur District. ... Respondent

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records of the respondent in pertaining to the impugned order in Na.Ka.No.A1/1615/2022/ma3, dated 19.04.2022, and to quash the same as illegal, incompetent, ultra-vires, violation of principles of natural justice and consequently directing the respondent to make inspection and note down the actual measurements in the subject property in the presence of the petitioner and to pass afresh assessment order by considering the petitioner's representation dated 25.06.2022.

For Petitioner : Mr.MA.P.Thangavel

For Respondent : Mr.S.Silambannan
Additional Advocate General
Assisted by Ms.P.Shanthi
Standing Counsel

ORDER

The Writ Petition has been filed challenging the order passed by the respondent, viz., the Commissioner, Tiruppur City Municipal Corporation, dated 19.04.2022 and to direct the respondent to make inspection and note down the actual measurements in the subject property in the presence of the petitioner and to pass fresh assessment order by considering the petitioner's representation dated 25.06.2022.

2. The case of the petitioner in short is that he purchased a property for a valuable consideration and has constructed a building in site Nos.13 and 14, TS.No.5, Block No.1 with a proper plan and approval from the respondent-Corporation and the said property was also assessed for property tax. Right from the date of purchase of the property, the petitioner has been paying a sum of Rs.1,242/- towards half yearly property tax periodically without any default. However, all of a sudden, the respondent has issued five demand notices, dated 17.03.2022 in respect of a single building requiring the petitioner to pay a sum of Rs.7,50,200/- towards the property tax. Though the petitioner made a representation dated 25.03.2022 to the respondent to measure the property and fix just and reasonable tax and the same will be paid, the respondent without considering the representation of the petitioner, has passed the present impugned order dated 19.04.2022. Hence, the present Writ Petition.

3. The learned counsel appearing for the petitioner would submit that the petitioner, on receipt of demand notices dated 17.03.2022, submitted a detailed representation dated 25.03.2022 to the respondent clearly stating the entire facts that there was no interim assessment or final assessment of the property with regard to the demands that too with retrospective effect for the past two and half years and requested the respondent to inspect the property and thereafter, to revise the property tax, the respondent, without considering the said request passed the impugned order dated 19.04.2022. The learned counsel further submitted that even after the impugned order was passed, the petitioner again sent a representation on 25.06.2022 stating that belated demands and exorbitant property tax are liable to be withdrawn since the respondent failed to assess the property tax in consonance with the Rules and

Regulations, however, despite of all such efforts taken by the petitioner, the respondent is trying to implement the impugned order. Hence, the learned counsel prayed for

4. The learned Additional Advocate General appearing on behalf of the respondent would submit that initially, the property was assessed by virtue of single assessment since the building was constructed by the petitioner for residential purposes, but subsequently, they issued the impugned order for the reasons that, now the petitioner is using the property for commercial purposes. Therefore, the petitioner was assessed through five assessment numbers.

5. In response to the above, the learned counsel for the petitioner contended that there was 100% revision of the property tax by virtue of assessment order dated 17.03.2022 and a further revision was issued for five assessment orders on 19.04.2022 for a sum of Rs.7,48,200/- and all these assessments were made without providing an opportunity to the petitioner and the basis on which they have converted single assessment into five assessments in respect of the petitioner's property.

6. Though the respondent has raised strong objections on the contentions putforth by the petitioner, the learned Standing Counsel for the Corporation would fairly submit that in the event, if this Court passes any order with regard to the provision of opportunity to the petitioner, the same would be considered and thereafter, assessment order would be passed.

7. In the present case, it is seen that the impugned assessment order has been passed without providing any opportunity to the petitioner and any details/reasons for converting the single assessment into five assessments, and though the petitioner has made a detailed representation dated 25.03.2022, and sought the reasons for such enhanced demand that too with retrospective effect, which was followed by another representation dated 25.06.2022, stating that exorbitant property tax demands are liable to be withdrawn since the respondent failed to assess the property tax in consonance with the Rules and Regulations, the respondent has not bothered to consider those representations, rather, he is keen on implementing the impugned order. Hence, this Court is inclined to set aside the impugned order passed by the respondent and remand the matter to the respondent for fresh consideration.

8. Accordingly, this Writ Petition is allowed, the impugned order dated 19.04.2022 is set aside and the matter is remitted back to the respondent for fresh consideration, who shall pass appropriate orders in accordance with law after considering the representations made by the petitioner dated 25.03.2022 and 25.06.2022, and after providing an opportunity of hearing to the petitioner. No costs.

02.11.2023

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

To

The Commissioner,
Tiruppur City Municipal Corporation,
Tiruppur District.

KRISHNAN RAMASAMY, J.

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