IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23421 of 2022
and W.M.P.No.22375 of 2022

M/s.Sri Natwarlalji Trust Fund,
Rep.by its Trustee,
Aswinkumar K.Shah .. Petitioner

vs.

1. The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai 600 003.

2.The Assistant Revenue Officer,
Greater Chennai Corporation,
Zone-5, Door No.61, Basin Bridge Road,
Chennai 600 021. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the record on the file of Second Respondent in his proceedings Z.O.V.R.D.C.No.Assr.59/8760/2020 dated 19.07.2022 and Final Assessment Notice No.10/22-23/568081 dated 09.07.2022 .

For Petitioner : Mr.P.Radhakrishnan

For Respondents : M/s.Aswini Devi.K
Standing Counsel.

ORDER

The second round of litigation before this Court. Earlier, the petitioner was issued with a notice under Section 134-B of the Chennai City Municipal Corporation Act, 1919 of 24.07.2015 bearing Reference Z.O.V.R.D.C.No.R3/SPPL-/2015. Along with the aforesaid notice, the petitioner was also issued with a revised assessment notice No.7/15-16/3104 dated 24.07.2015. Property tax of Rs.2,00,130/- was demanded for the above said property. The area of the property was arrived as 17,595 sq.ft. The annual value of the property was determined as Rs.16,13,954/-.

2. This was the subject matter of the challenge before this Court in W.P.No.9734 of 2016. The petitioner secured a favourable order whereby, this Court quashed the aforesaid notice dated 24.07.2015 and directed the second respondent to re-do the assessment after inspecting the property and also directed the petitioner to continue to pay half yearly

property tax of Rs.70,369/-. At the same time, gave liberty for a fresh inspection of the subject property and to thereafter issue a fresh provisional assessment after giving due notice to the petitioner. Relevant portion of the said order dated 17.08.2020, reads as under:-

> 5. In the light of the above observations, the impugned orders in Z.O.V.R.D.C.No.R3/SPL/2015 and Order No.7/15-16/3104 dated 24.07.2015, are set aside. However, the respondent are at liberty to conduct a fresh inspection of the subject property at New No.144, Old No.163, NSC Bose Road, Chennai-3 and thereafter issue a fresh provisional assessment for property tax, after giving due opportunity to the petitioner to put forth his objections and thereafter pass final assessment orders. The concerned respondent shall endeavor to complete the reassessment proceedings as expeditiously as possible. Till such time, the petitioner herein shall continue to pay the half yearly property tax at the rate of Rs.70,369/-.
>
> 6. The Writ Petition stands allowed in the above terms. Consequently, connected Miscellaneous Petition is closed. No costs.

3. Pursuant to the aforesaid order, a Assessment was completed. The petitioner has challenged the final Assessment Notice No.10/22-23/568081 dated 09.07.2022 and the communication dated 19.07.2022 bearing Reference No.Z.O.V.R.D.C.No.Assr.59/8760/2020 of the

Assistant Revenue Officer, the second respondent herein. Relevant portion of the impugned communication, reads as under:-

In this regard, you are furnished all above records. Based on that zonal aro and divisional assessor conducted an inspection on 24.09.2021 and subsequently, hearing was conducted in the premises under issue and your requested to revise the tax proportionate to the area and usage.

On inspection details of the building are tabulated below:-

Floor Details `	***Area and Usage (area in sq.ft.)***				***Building Type***	***Annual Value (AV) Half-Yearly Tax (HYT) Rs.***	***Effect Period***
	Residential Owner	***Residential Tenant***	***Non-Residential Owner***	***Non-Residential Tenant***			
Ground	-	-	-	3420	Permanent	AV 9,97,944	1/2009-10
First	-	-	-	3420			
Second	-	-	-	3420			
Third	-	-	-	774	Semi-Permanent		

On perusal of the records and physical inspection confirming the plinth area and usage, your claim is accepted.

In compliance to the Hon'ble High Court Order and as per your earlier representations, the Final Assessment Notice 10/22-23/568081, dated 09.07.2022 is issued based on merits and the same is in accordance with law.

4. The petitioner is questioning the amount that has been determined in Form-10 as Final Assessment dated 09.07.2022 on the ground that a sum of Rs.1,22,745/- has been demanded for the period commencing from first half of 2009-10 upto second half of 2017-18 and for the period thereafter commencing from first half of 2018-19.

5. It is submitted that the tax that has been demanded for all the three periods commencing from 2009-10 upto first half 2009-10 and first half 2018-19.

6. The learned counsel for the petitioner submitted that the petitioner continued has to pay tax Rs.70,369/- that was fixed prior to the order dated 24.07.2015 which was subject matter of W.P.No.9734 of 2016 .

7. The learned counsel for the respondents submits that there is no merits in this writ petition. It is submitted that the exercise was carried strictly in accordance with the direction of this Court's order dated 17.08.2020 in W.P.No.9734 of 2016.

8. It is submitted that the revised assessment was made in accordance of Section 131 (c) of the Chennai City Municipal Corporation Act, 1919 and therefore if the petitioner is aggrieved, the petitioner has to file a statutory appeal in accordance with Schedule IV Section 14 (1) Part 5 before the Taxation Appellate Tribunal. It is submitted that the petitioner has to deposit 50% of the arrears of tax that has been determined.

9. I have considered by the learned counsel for the petitioner and the learned Standing Counsel for the respondents and I have also perused the records.

10. In my view, this writ petition is without any merits. The present writ petition invoking the jurisdiction of this Court under Article 226 of the Constitution of India is nothing but an abuse of Court proceeding. Notice dated 24.07.2015 was quashed with a direction to revise the assessment by this Court. A fresh inspection of the property was carried out based on which tax has been demanded. Therefore, it is not open for the petitioner to question the basis of assessment by raising disputed question of fact.

11. Under these circumstances, this writ petition is liable to be dismissed and it is accordingly dismissed. However, liberty is given to the petitioner to challenge the assessment made in the impugned communication /Final Assessment Notice No.10/ 22-23/568081 dated 09.07.2022 in the manner known to law under the provisions of the Chennai City Municipal Corporation Act, 1919 and under the provisions of the Tamil Nadu Urban Local Bodies Act, 1998 before the Taxation Appellate Committee, within a period of 30 days from the date of receipt of a copy of this Order.

12. This writ petition stands dismissed with the above liberty. No costs. Consequently, connected miscellaneous petition is closed.

28.07.2023

Index : Yes / No
Internet : Yes / No
Speaking : Non-speaking Order
kkd

To

1. The Commissioner,
   Greater Chennai Corporation,
   Rippon Buildings,
   Chennai 600 003.

2. The Assistant Revenue Officer,
   Greater Chennai Corporation,
   Zone-5, Door No.61, Basin Bridge Road,
   Chennai 600 021.

C.SARAVANAN, J.

kkd

W.P.No.23421 of 2022

28.07.2023