IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.24003 of 2023

R.Vimala ... Petitioner

Vs.

1. The Commissioner,
   The Greater Chennai Corporation,
   Corporation, Rippon Building,
   No:1131, EVR Salai,
   Park Town,
   Chennai – 600 004.

2. Regional Deputy,
   Commissioner (Central),
   Door No:13-B/36-B,
   Pulla Avenue,
   Shenoy Nagar,
   Chennai – 600 030.

3. The Assistant Revenue,
   Officer, Zone-9-Revenue,
   Greater Chennai Corporation,
   No:4 4th Cross Street,
   Lake View Road,
   Nungambakkam,
   Chennai – 600 034.

4. The Assessor Zone-09,
Greater Chennai Corporation,
6th Street, C.I.T. Colony,
Mylapore,
Chennai – 600 004. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to Property Tax General Revision:II/22-23/1278183 dated 09.09.2022 of the first respondent revising the half yearly tax to Rs.32,135/- with effect from the half yearly period I/2022-23 and quash the same as no final assessment order has been passed by the second respondent on the objections raised against tax revision without show cause notice for the years 2020-21 and also against property tax general revision notice S/1/18-19/855377 dated 11.10.2018, and as the impugned Property Tax General Revision:II/22-23/1278183 dated 09.09.2022 is thus against the provision u/r 3(1) and 4(5) of the property tax rules under schedule IV of the Chennai City Municipal Corporation Act, 1919 and in violation of the law laid down by this Hon'ble High Court in catena of decisions and direct the second respondent to pass final assessment orders on the objections raised against property tax general revision notice S/1/18-19/855377 dated 11.10.2018 and also on the objections raised against the subsequent revisions and to fix consequently the tax within the time limit.

For Petitioner : Mr.R.Rajendran

For Respondents : Mr.Prithvi Chopda
Standing Counsel

ORDER

The petitioner has challenged the Impugned Demand Notice dated 09.09.2022 demanding a sum of Rs.32,135/- being the tax payable for the first half year of 2022-2023.

2. The learned counsel for the petitioner submits that the respondents have wrongly classified the petitioner's property as a commercial property. It is submitted that there is only one floor whereas the respondents have treated the property as it was having two floors.

3. The learned counsel for the petitioner submits that despite the petitioner protesting the same, the respondents have been repeatedly issuing Demand Notices and filing Warrant Notices and therefore, the petitioner has paid the property tax for the first half and second half of 2018-2019.

4. The learned counsel for the petitioner fairly submits that the petitioner has not paid any tax that was demanded by the respondents after 2018-2019.

5. It is submitted that there is no proper assessment and therefore unless there is a proper assessment, the petitioner cannot be called upon to pay the tax.

6. The learned counsel for the petitioner has drawn attention to a decision of this Court rendered in the case of **V.Krishnamurthy** vs. **The Revenue Officer, Chennai and others** vide order dated 18.02.2019 in W.P.No.4462 of 2019.

7. He has also placed reliance on the yet another decision of this Court in the case of **V.Srinivasan** vs. **The Government of Tamil Nadu** rendered in W.P.No.10024 of 2019 dated 03.04.2019, wherein the Court held as follows:-

"6. A Division Bench of this Court in the case of Sanjai Gupta vs. The Commissioner, Corporation of Chennai (2009(2)CTC465) has considered a similar case holding that an occasion to file an appeal would arise only after a final order has been passed. The decision of the Bench reads as follows:-

1. *....*

2. *This Appeal arises out of an interlocutory order passed by the learned Single Judge in W.P.No.4237 of 2009. By consent of both the counsel, the Writ Petition itself is taken in the cause list of the Division Bench. Both the counsel are heard.*

3. *The submission of Mr.K.V.Babu, learned counsel for the appellant/petitioner is that the Municipal Corporation sent a notice dated 25.04.2007 to the appellant asking him to show cause as to why the property tax should not be revised in the manner indicated in that notice. The notice was supposed to be replied within 15 days. The appellant received that notice on 16.06.2007 and sent a reply to the same on 23.06.2007 pointing out amongst others that there was no alteration or addition in any manner in the building in which the appellant was running a lodging house. That apart, the grievance in the Writ Petition is that without deciding the objections, a subsequent order/notice dated 28.01.2009 has been issued calling upon the appellant/petitioner to pay the balance amount, as per the calculation of the respondents, to the tune of Rs.20,69,393/-. Being aggrieved by this order, the Writ Petition has been filed, wherein the learned Single Judge has*

directed the deposit of Rs.11 lakhs for granting a stay.

4. *Mr.K.V.Babu, learned counsel submits that the demand notice, dated 28.01.2009 is not based on any order passed by the Commissioner and, therefore, the order of the learned Single Judge, asking the appellant to deposit an amount of Rs.11 lakhs for granting a stay, is unjustified.*

5. *Mr.L.N.Praghasam, learned counsel appearing appearing for the Municipal Corporation submits that the appellant has a remedy to go to the Taxation Appellate Tribunal under Part V of the Taxation Rules read with Section 138 of the Chennai City Municipal Corporation Act, 1919.*

6. *In our opinion, this submission is misconceived. The occasion to file an Appeal will arise only after an order is passed and based thereon a demand is made. In the present case, the appellant having filed the objections, they were expected to be decided. Without deciding the same, this levy has been calculated and the balance amount of Rs.20,69,393/- has been demanded.*

7. *In the circumstances, we set aside the order passed by the learned Single Judge. The demand notice dated 28.01.2009, which is impugned in the Writ Petition is also set aside. The Writ Appeal as well as Writ Petition are allowed. Consequently, the connected M.Ps. are closed. There shall be no order as to costs."*

8. The learned Standing Counsel for the respondents submits that the Demand Notices are categorical. Wherein it has been stated that a person aggrieved by the Demand Notice may prefer objection before the Regional Deputy Commissioner within the time stipulated therein.

9. He further submits that if the petitioner files appropriate objection, the same will be considered and appropriate orders will be passed by the respondents.

10. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Counsel for the respondents.

11. It is noticed that the petitioner has not paid any tax for the property for the Financial Year 2019-2020 and almost eight (8) half yearly tax has been remained unpaid.

12. Considering the above, the petitioner is directed to pay the tax that was determined in 2018 at Rs.11,710/- per for half yearly basis for the period commencing from first half on 2019-2020 to second half on 2023-2024.

13. The petitioner is given liberty to file a fresh representation regarding the dimension and the built up area with the respondents. The respondents shall consider and pass appropriate orders after inspecting the property in presence of the petitioner. The amount to be paid by the petitioner pursuant to this order shall be either adjusted towards the tax liability of the petitioner or adjusted against the future tax liability in case there is excess payment.

14. The Writ Petition stand disposed of with the above observations and directions. No costs.

22.09.2023

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

To

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C.SARAVANAN, J.

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