BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.7269 of 2023
and
W.M.P.(MD) No.6859 of 2023

P.Rajkumar .. Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Assistant Commissioner,
Madurai Corporation, Zone-2,
Madurai. .. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the first and second respondents to fix property tax to the petitioner's building without any bias as per the guidelines of the Tamil Nadu Government and to refund or to deposit the excess property tax (Rs.28,86,900/-) collected from the petitioner in the petitioner's Assessment No.115/035/900575 and by considering the representation of the petition dated 07.03.2023 within the reasonable time as maybe fixed by this Court.

For Petitioner : Mr.T.Balarathinakumar

For Respondents : Mr.K.K.Kannan
Standing Counsel

ORDER

This writ petition is filed for a mandamus directing respondents 1 and 2 to fix the property tax in respect of the petitioner's building as per the guidelines of the Tamil Nadu Government and to refund or deposit the excess property tax collected from the petitioner in the petitioner's Assessment No.115/035/900575.

2. It is the case of the petitioner that he had purchased an extent of 3,150 sq. ft. of land bearing D.No.MIG-341, LIG Colony, Anna Nagar, Madurai, in the year 2003 and had constructed a commercial complex in the year 2010 consisting of the basement, ground and six floors after obtaining necessary permission from the first respondent. The petitioner would submit that the first respondent had fixed the property tax, water tax and drainage tax in respect of these commercial complexes in the

month of December, 2012 and the building was assessed under Assessment No.115/16394. Thereafter, the assessment number was changed and it is the case of the petitioner that he has been remitting the taxes from the year 2012 to date without any default. The total extent of the complex is 20,101 sq. ft. The property tax is collected every half year. The first respondent is collecting the tax of Rs.3,94,430/- annually. The petitioner would submit that from 31.03.2012 till 31.03.2022, he has been paying tax at the rate of Rs.9.81 per sq. ft. All of a sudden, the first respondent has enhanced the property tax by over 100 percent thereby the petitioner has to pay a sum of Rs.7,88,860/- every year which works out to a sum of Rs.19.62 per sq. ft. as property tax.

3. The petitioner would submit that there is no uniformity in the levy of tax. For the commercial building, which is situate immediately south of the petitioner's building, the tax has been fixed at the rate of Rs. 7.47 per sq. ft. Earlier, the tax was Rs.3.73 per sq. ft. This discrepancy in the assessment of tax, despite both the properties being situate in the same ward number, prompted the petitioner to send a representation to

the second respondent after a demand notice dated 21.07.2022 was issued by the first respondent calling upon the petitioner to pay the enhanced property tax to the commercial building. Though the representation was sent on 01.02.2023 to the second respondent, the second respondent had not taken any action. On the contrary, the second respondent had instructed his subordinates to disconnect the water and drainage connection and insisted on the payment of the enhanced tax. Therefore, the petitioner has come forward with the present writ petition.

4. The learned Standing Counsel for the Corporation would submit that the petitioner has an appellate remedy and without invoking the appeal remedy, the petitioner has come forward with the present writ petition.

5. Heard the learned counsel on either side.

6. The writ petition though couched in the form of a mandamus, is essentially questioning the enhancement of the tax, which has been

levied as per the provisions of the Madurai City Municipal Corporation Act, 1971 (hereinafter referred to as "the Act") and the Act makes a provision for an appeal under Section 169-G of the Act. Without exhausting the appellate remedy, the petitioner has proceeded to approach this Court by way of a mandamus. Therefore, this writ petition is dismissed. However, liberty is granted to the petitioner to approach the appellate authority. No costs. Consequently, connected miscellaneous petition is closed.

03.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

abr

To

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Assistant Commissioner,
Madurai Corporation, Zone-2,
Madurai.

P.T.ASHA, J.

abr

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