BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.11.2023**

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P(MD)Nos.2251 & 2252 of 2019
and
C.M.P(MD)Nos.11631 & 11633 of 2019

Aruna .... Petitioner in both CRPs

.vs.

The Trichirappalli City Municipal Corporation
by its Executive Authority,
Cantonment,
Trichy. ....Respondent in both CRPs

PRAYER in C.R.P(MD)No.2251 of 2019: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 28.06.2018 passed in C.M.A(Tax) No.10 of 2017, on the file of the learned Principal District Judge, Tiruchirappalli confirming the order passed in Taxation Appeal No.18/2016 dated 22.12.2016 on the file of the Learned Taxation Appellate Tribunal, Tiruchirappalli Corporation by allowing this Revision Petition.

PRAYER in C.R.P(MD)No.2252 of 2019: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 28.06.2018 passed in C.M.A(Tax) No.9 of 2017, on the file of the learned Principal District Judge, Tiruchirappalli confirming the order passed in Taxation Appeal No.19/2016 dated 22.12.2016 on the file of the Learned Taxation Appellate Tribunal, Tiruchirappalli Corporation by allowing this Revision Petition.

For Petitioner in both petitions	:Mr.S.Vijayak
For Respondent in both petitions	:Mr.Kisore Ram RB Law Associates

COMMON ORDER
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These Civil Revision Petitions have been preferred by the property owner challenging the dismissal of CMA (Tax) Nos.9 & 10 of 2017 confirming the order of the learned Taxation Appellate Tribunal, Tiruchirappalli, dated 22.12.2016.

2. It is the case of the revision petitioner that she constructed a new building and the Corporation has passed an assessment order in respect of the said building. Despite the building being constructed as a single property, the Corporation has made two assessments. Further, according to the revision petitioner, no show cause notice was issued to her before

the assessment orders came to be passed and she was also not present when the authorities inspected the building before passing the assessment orders.

3. Heard Mr.S.Vinayak, learned counsel appearing for the petitioner and Mr.Kisore Ram, learned counsel appearing for the respondent / Corporation. I have also perused the records filed in the form of typed set of papers including the impugned orders as well as the original order passed by the Corporation as well as the Taxation Appellate Tribunal.

4. The Principal District Judge, Tiruchirappalli has referred to the fact that he has perused the case records and that it is evident from the same that the Corporation officials measured the property in the presence of the revision petitioner and during that period, the revision petitioner has not raised any objections. The learned counsel for the petitioner also invited my attention to the order passed by the Taxation Tribunal, where, there is a clear reference at inner page-2 paragraph-4 of the order that on both sides, in respect of both assessment orders, no counter affidavit has been filed and both parties have not filed any oral and documentary

evidence and that the order was passed only based on the arguments advanced by the respective parties. Strangely, the Principal District Judge has made a repeated reference to case records from the trial Court and that on perusal of the same, he has noticed that the property was measured in the presence of the revision petitioner. The revision petitioner has specifically raised grounds in the memorandum of grounds of revision that the property was not at all surveyed or measured by the surveying authorities before passing the order and no documents were produced by the Corporation before any of the authorities upto the Principal District Judge, where, the CMA of the revision petitioner came to be dismissed.

5. Insofar as the contention of the learned counsel for the petitioner that for a single building, there cannot be two assessment, I am not deciding the said issue and the Corporation shall decide the same in line with the statutory provisions and if it is permissible, to pass separate assignment orders in respect of a single independent building, then the respondent corporation may proceed accordingly. However, insofar as the assessment orders fixing the property tax amount payable by the revision petitioner, I find that despite the objections taken by the revision

petitioner before the Appellate Tribunal as well as the Principal District judge, the same has not been addressed in a proper manner. Surprisingly, in the absence of any records available in the case papers in the first place, it is not known how the District Judge has referred to the case records and stated that the property was measured in the presence of the revision petitioner and that she has not raised any objections.

6. Considering the fact that the revision petitioner has specifically denied that the property was measured in her presence and also in the light of the fact that the respondent corporation has also not produced any records either before the Tribunal or before the Principal District Judge while deciding the taxation CMA, I find force in the contention put forth by the revision petitioner.

7. In fine, these revision petitions are allowed and the order passed by the learned Principal District Judge, Trichirappalli in C.M.A.Nos.9 & 10 of 2017, dated 28.06.2018 confirming the order of the Taxation Appellate Tribunal in Taxation Appeal Nos.19 & 18 of 2016, dated 22.12.2016 are hereby set aside and the respondent Corporation shall make fresh assessment orders, in accordance with law, after inspecting

the property in the presence of the revision petitioner. This exercise shall be carried out within a period of four weeks from the date of receipt of a copy of this order. The revision petitioner shall extend her full cooperation to the respondent corporation officials in this regard. No costs. Consequently, connected miscellaneous petitions are closed.

Index:Yes/No
Internet:Yes/No
NCC:Yes/No **07.11.2023**
AM

To

1. The Principal District Judge,
   Tiruchirappalli.

2.The Taxation Appellate Tribunal,
   Tiruchirappalli.

P.B.BALAJI,J.

am

C.R.P(MD)Nos.2251 & 2252 of 2019

07.11.2023