BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.29238 of 2022
and
W.M.P(MD)Nos.23191 & 23192 of 2022

R.Krishnan ... Petitioner

Vs.

The Commissioner,
Nagercoil Municipal Corporation,
Nagercoil. ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorarified Mandamus***, calling for the records of the impugned demand notice, dated 12.12.2022 passed by the respondent with respect to the tax assessment no. 150/014/901626 and quash the same as illegal and further direct the respondent herein to re-fix the property tax to the property in N.M.C.No. 36/1/166 in Nagercoil Village, Agasteeswaram Taluk, Kanyakumari District within a time stipulated by this Court.

For Petitioner : M/s.D.Nallathambi

For Respondent : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by
Mr.F.Deepak

ORDER

This writ petition has been filed challenging the impugned demand notice, dated 12.12.2022 passed by the respondent with respect to the tax Assessment No. 150/014/901626.

2. Heard M/s.D.Nallathambi, learned Counsel appearing for the Petitioner and Mr.Veera Kathiravan, learned Additional Advocate General, assisted by Mr.F.Deepak, appearing for the respondent. Perused the material documents placed on record.

3. The petitioner is the owner of the property and paying property tax assessed by the respondent. The respondents have imposed tax for a period from 1997-1998 onwards. The petitioner is resisting the payment of tax, by raising various issues. The petitioner has also filed suit in O.S.No.85 of 2010 on the file of the Principal District Munsif Court, Nagercoil. In the said suit, the Court has granted injunction against the respondent until the orders are passed in appeal filed by the petitioner before the Taxation Appeal Committee, Nagercoil Municipality, Nagercoil, the respondent shall not collect tax. Based on the aforesaid order, the petitioner is claiming that the respondent has no power to collect tax.

4. This Court is not able to appreciate the contention of the petitioner, since the assessment of tax is carried out for every year. The civil court has granted injunction and the same is applicable for the said assessment year only. The perpetual injunction against the statutory duty cannot be granted and if granted it would be an illegal order. Therefore, the contention of the petitioner that the respondent cannot collect tax cannot be entertained. The claim of the petitioner is against the statutory duty of the respondents.

5. As per the impugned demand notice, dated 12.12.2022 the respondent is claiming a sum of Rs.29,43,505/-. The petitioner has already paid a sum of Rs.7,50,000/-, based on the interim order of this Court. Therefore, the petitioner is directed to pay a further a sum of Rs.7,50,000/- to the respondent in three equal installments. On payment of the first installment, the petitioner’s appeal shall be heard by the respondents.

6. At this juncture the respondents submitted that the Nagercoil Municipality is upgraded as Corporation. Due to changes the appeal papers of the petitioner are not available with the respondent. Hence the petitioner is directed to file fresh appeal before the Taxation Appeal Committee. The appeal shall be decided, within a period of 3 months, from the date of receipt of a copy of the order.

7. With these directions and observations, this Writ Petition is allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

18.07.2023

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

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To

1. The Taxation Appeal Committee,
   Nagercoil Municipality,
   Nagercoil.

2. The Commissioner,
   Nagercoil Municipal Corporation,
   Nagercoil.

S.SRIMATHY, J.

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W.P.(MD).No.29238 of 2022

18.07.2023