IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.11.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.13334 of 2022
and
W.M.P.No.12602 of 2022

Mr.Sudhir Babu ....Petitioner

Vs

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

2. The Assistant Revenue Officer,
Zone – IX
Greater Chennai Corporation,
Lake Area, Nungambakkam
Chennai – 600 034

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorari to call for the records pertaining to the impugned demand notice dated 05.05.2022 issued by the 2nd respondent in respect of the assessment No.09 116 02494 000 and quash the same

For Petitioner : Mr.Hari Radhakrishnan

For Respondents : Mr.E.Abinaya Lakshana
for Mr.E.C. Ramesh
Standing Counsel

O R D E R

This is the second round of litigation before this Court. Earlier, petitioner had filed W.P.No.8481 of 2019, wherein petitioner had challenged the demand notice dated 03.10.2018. Pursuant to the direction of this Court, petitioner had filed appeal before the Taxation Appeals Tribunal under Schedule IV part V, Rule 16 of Chennai City Municipal Corporation Act 1919 in T.A.T.No.04 of 2020. By an order dated 16.02.2021, the Taxation Appeals Tribunal has passed the following order:

According to the appellant the respondent has revised the tax from Rs.10,160/- to R.53,320/- w.e.f. 1/2011-12. The appellant preferred a Writ petition in W.P.No.8481/2019 and order was passed in the said writ petition along with other similar writ petition on 11.4.2019. The appellant challenged the reclassification of his premises as commercial. The Hon'ble High Court in the above writ petition has held that the classification of mansion as tenant commercial is valid and the resolution of the respondent dated 28.3.2017 which brought the new classification was also held justifiable but it directed that the levy can be imposed only after the date of resolution and no levy can be imposed for a period when such classification itself did not exist. The appellant property herein is also a mansion rented out for occupation and *therefore terming it as tenant commercial is only a valid classification as per the High Court order. However after the passing of the order of Hon'ble High Court the respondent had issued Form 10 Notice i.e. final assessment order on 3.10.2019 claiming the property tax on reclassification of the property for the period w.c.f. 1/2017-18 at Rs.53,320/- but prior to issuing of final assessment the corporation did not issue provisional assessment in Form -7 giving an opportunity to the appellant to put forth his contentions. He was not given personal hearing before passing of the final assessment order. The respondent counsel filed a counter and written arguments also stating that the appellant property was inspected in the presence of the appellant. But the respondent did not produce any document to show that the property was inspected after the order of the Hon'ble High court and provisional assessment notice was also issued. Therefore, there is violation of procedure enumerated in th Chennai City Municipal Corporation Act 1919. Therefore this point is answered in favour of the petitioner.*

In the result, the appeal is allowed. However, the respondent is given liberty to issue Form-7 Notice and give opportunity to the appellant for personal hearing and thereafter issue Final Assessment Order in accordance with law and as per the direction of the Hon'ble High Court.

2. Pursuant to the above, the respondent had issued impugned demand notice, wherein the arrears of property tax was quantified as Rs.4,08,974/- by fixing the half year tax at Rs.53,320/- on the annual value of the property at Rs.4,29,575/-, which is similar to the demand that was earlier confirmed on 03.10.2018, which is the subject matter of the above Writ Petition.

3. The response coming from the respondent is that, pursuant to the direction of the Taxation Appeals Tribunal in in T.A.T.No.04 of 2020 by an order dated 16.02.2021, the Officials of the respondents took steps to address a letter dated 31.05.2022 directing the petitioner to appear for personal hearing. However, the petitioner did not appear for personal hearing nor had given any representation and thus, the impugned order was issued to the petitioner.

4. Considering the facts and circumstances of the case, the impugned demand notice dated 05.05.2022 is quashed and the matter is remanded back to the respondents to pass speaking order within a period of eight

weeks from the date of receipt of copy of the order. The petitioner shall appear before 2^{nd} respondent on 28.11.2024 positively. Thereafter, the 2^{nd} respondent shall pass appropriate orders in accordance with law.

5. With the above observations and directions, this Writ Petition is disposed of . Consequently, connected miscellaneous petition is closed. No costs.

05.11.2024

Index :Yes/No
Neutral Citation : Yes
Speaking order : Yes
Sma

To
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C.SARAVANAN, J

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