IN THE HIGH COURT OF JUDICATURE AT MADRAS

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| Reserved on | 28.07.2023 |
| Pronounced on | 02.02.2024 |

CORAM

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.Nos.19826 and 19829 of 2022
and
W.M.P.Nos.19143 and 19144 of 2022

S.Vetrivel ... Petitioner in both W.Ps.

Vs

1. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai – 600 003.

2. The Deputy Commissioner,
Greater Chennai Corporation,
Zonal – 12, Alandur,
Chennai – 600 016.

3. The Assistant Revenue Officer,
Zone – 12, Ward – 167,
Greater Chennai Corporation,
Alandur,
Chennai – 600 016. ... Respondent in both W.Ps.

Prayer in W.P.No.19826 of 2022: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the third respondent along with impugned notice dated 14.06.2022 vide notice no:10/22-23/566063 for general revision of property tax and consequential notice for current demand and arrears and quash the same as per G.O.(Ms).No:150, dated 19.11.2019, as being excessive and arbitrary in nature and consequently direct the respondents to revise the property tax in accordance with the existing rules and regulations and permit the petitioner to pay the tax at the already existing rates as per G.O.(Ms).No.150 dated 19.11.2019.

Prayer in W.P.No.19829 of 2022: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the third respondent along with impugned notice dated 14.06.2022 vide notice no:10/22-23/566062 for general revision of property tax and consequential notice for current demand and arrears and quash the same as per G.O.(Ms).No:150, dated 19.11.2019, as being excessive and arbitrary in nature and consequently direct the respondents to revise the property tax in accordance with the existing rules and regulations and permit the petitioner to pay the tax at the already existing rates as per G.O.(Ms).No.150 dated 19.11.2019.

For Petitioner : Mrs.A.V.Bharathi
(in both W.Ps.)
For Respondents : Mr.E.C.Ramesh
(in both W.Ps.) Standing Counsel

**COMMON ORDER**

By this common order both the writ petitions are being disposed of

2. The petitioner has challenged the Impugned Notice dated 14.06.2022 titled as Notice 10: Final Assessment in both the writ petitions.

3. The annual value of the two theaters viz., Velan (W.P.No.19826 of 2022) and Vetrivel (W.P.No.19829 of 2022) and half yearly tax have been arrived as detailed below for the first half of 2018-2019:-

| **W.P.No.** | **Name of the Theatre** | **Annual Value** | **Revised Half Yearly Tax** |
|---|---|---|---|
| 19826 of 2022 | Velan | Rs.11,85,617/- | Rs.1,47,020/- |
| 19829 of 2022 | Vetrivel | Rs.24,18,009/- | Rs.2,99,835/- |

4. This is the second round of litigation before this Court. Earlier the petitioner had filed the Writ Petitions in W.P.No.9375 of 2020 and W.P.No.9443 of 2020 against the demand notices issued by the respondent Corporation.

5. By an order dated 07.01.2021 these two writ petitions were disposed with the following observations:-

> *"The petitioner has challenged a demand of property tax imposed upon two properties,Velan Theatre and Vetrivelan Theatre. It appears that the petitioner was in receipt of a notice dated 15.11.2018 in Form No.1, issued for a special type building for general revision of tax for the period 2018-19.*
>
> *2. An objection to the proposals in the notice were filed by the petitioner within the stipulated period of 30 days i.e. on 03.12.2018, duly received and acknowledged by the 3rd respondent/Assistant Revenue Officer. Admittedly, this objection is pending till date. Even without disposing the objections the respondent has proceeded to issue the impugned demand notice on 11.01.2020 calling upon the petitioner to remit alleged arrears of property tax for the period from 2018-2019 till date.*

*3. The impugned orders set out the periods in question as the second half of 2003 till the first half of 2011-12. However, under cover of memo dated 07.01.2020 learned Standing Counsel for the Corporation confirms that the demand refers only to the periods 2018-2019 till date. Learned Corporation counsel also states that enhancement of demand is proper in the light of the fact that the property is a theatre falling under the category of 'Special type of building'*

*4. Be that as it may, since the petitioner has filed objections to the assessment of property tax as early as in December 2018 it is only proper that a demand, if any, be raised after consideration of objections and passing an order of assessment. The impugned order is thus set aside. The petitioner will appear before the respondent on Monday, the 18th of January at 10.30 a.m. without awaiting any further notice in this regard. The petitioner shall be heard and objections and other materials, if any, that it may rely upon in support of its stand, shall be taken into consideration by the officer. A speaking order of assessment shall be passed within a period of four (4) weeks from the first date of hearing. It is made clear that the petitioner shall continue to remit the property tax at earlier rates regularly, pending proceedings."*

6. Pursuant to the above, the petitioner has also given a reply. The Tax that was also demanded has been substantially reduced. Despite the same, the petitioner has filed this writ petition.

7. The specific case of the petitioner is that the respondents have not considered any of the submissions of the petitioner that the respective buildings of the respective petitioners are old buildings more than 50 years and do not have the high market value and therefore, there was no justification in imposing a huge tax of **Rs.1,47,020/-** and **Rs.2,99,835/-** as against the tax that was paid by the petitioner earlier for a sum of **Rs.12,035/-** and **Rs.19,743/-**

8. The learned counsel for the petitioner would place reliance on the decision of this Court in W.P.No.19880 of 2021 dated 24.11.2021 and submits that it is a fit case for remanding the case back once again to the respondent to pass a fresh order of assessment as there is no proper determination of tax liability of the respective petitioners in the Impugned Final Assessment Orders.

9. Defending the Impugned Order, learned Standing Counsel for the

respondents would submit that there is no merits in the present writ petitions.

10. It is submitted that the petitioner has an alternate remedy under Schedule IV to the Chennai City Municipal Corporation Act, 1919 before the Taxation Appellate Tribunal.

11. It is submitted that the respective petitioner's buildings qualify as “special category buildings” and property was calculated as per the Council Resolution No.243 of 2010 dated 30.12.2010.

12. In this connection, relevant portion of the aforesaid resolution reads as under:-

| **Cinema Theatre** | **As per Council Resolution No.543/10 dated 30.12.2010** |
| --- | --- |
| | Cinema Theatres are classified into “A” and “B” Category. Out of total Annual Income calculated as per seating capacity of the theatre and tariff rate for each class, 155 shall be set aside towards entertainment tax. Remaining 85% shall be calculated as gross income. Out of total gross income, 53% shall be treated as annual income. |

| | |
|---|---|
| | For "A" class theatres, 7.5% of the annual income shall be treated as annual rental value.<br>For "B" class theatres, 6.5% of the annual income shall be treated as annual rental value.<br>Annual Rental Value/12 is Monthly rental value. |
| | Annual Rental Value/12 is Monthly rental Value |
| | Calculation of Half Yearly Property tax.<br>**Step I:**<br>ARV of theatre portion/12 + MRV of Commercial portion = Total MRV<br>**Step II:**<br>MRV x 10.92 Annual Value<br>**Step III:**<br>Half yearly tax for the theatre shall be calculated as percentage of annual value as per table given below. |

13. It is submitted that the Corporation was increased the half yearly property tax from **Rs.12,035/-** for the year 2014-2015 and then the general revision of the property tax was increased to **Rs.3,18,400/-** with effect from 2018-2019 as per the G.O.Ms.No.73 dated 19.07.2018 and the G.O.Ms.No.76 dated 26.07.2018.

14. It is further submitted that when **Rs.12,035/-** was collected as a property tax, Alandur was not merged with the Greater Chennai Corporation

limit. After Alandur was merged with the Greater Chennai Corporation, revised property tax was calculated as per the Greater Chennai Corporation Counsel resolution. Hence, it is submitted that the petitioner's statement was incorrect and submitted that GCC cannot increase the property as per the own decision. The tax will be fixed as per the Government G.O.s and as per the Corporation Counsel resolution only. Hence prayed for dismissal of the writ petition.

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

16. These writ petitions challenging the respective assessment made by the third respondent pursuant to remand order dated 07.01.2021 are unjustified.

17. The tax liability of the respective petitioners have been substantially reduced pursuant to the remand order dated 07.01.2021 in W.P.No.9375 of 2020 and W.P.No.9443 of 2020 by the respective petitioners. As a matter of fact, a mechanism for redressing the grievance are

there in Schedule VI of the Chennai City Municipal Corporation Act, 1919 against the impugned assessment. The method for determining the tax has been prescribed in Section 100 of the Chennai City Municipal Corporation Act, 1919. It is therefore open to the petitioner to demonstrate how the assessment is contrary to Section 100 of the Chennai City Municipal Corporation Act, 1919 before the Appellate Authority.

18. The submission that the respondents have not considered the submission of the petitioner after the remand order cannot be countenanced as the demand that was confirmed earlier was substantially reduced in the impugned assessment orders/notices issued to the respective petitioners. Therefore, there is no scope for entertaining the writ petition to redress the grievance repeartedly under Article 228 of the Constitution of India. Clearly, these writ petitions are nothing but an abuse of Court proceedings. However, I am refraining from imposing cost of the respective writ petitioners.

19. These writ petitions are therefore dismissed with liberty to file statutory appeals under the mechanism prescribed under the provisions of the Chennai City Municipal Corporation Act, 1919 within a period of thirty (30)

days from date of reciept of this order.

20. These writ petitions are accordingly dismissed with the above liberty. Consequently, connected miscellaneous petitions are closed. No cost.

02.02.2024

Neutral Citation: Yes/No
Internet : Yes/No
Index : Yes / No
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**C.SARAVANAN, J.**

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   Rippon Building,
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2. The Deputy Commissioner,
   Greater Chennai Corporation,
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