BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.475 of 2024
and
W.M.P.(MD)Nos.495 and 498 of 2024

K.Palanisamy ... Petitioner

versus

1. The Town Planning Officer,
   Karur Municipal Corporation,
   Karur,
   Karur District.

2. The Commissioner,
   Karur Municipal Corporation,
   Azad Road,
   Karur,
   Karur District.

3. The Chairman,
   Appellate Authority for tax,
   Karur Municipal Corporation,
   Azad Road, Karur.

4. The Assistant Engineer,
   TANGEDCO, Service and Maintenance,
   Karur. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the entire records relating to the impugned property tax demand notice of the 2nd respondent dated 18.11.2023 and quash the same as illegal.

For Petitioner	:	Mr.V.R.Shanmuganathan
For R1 to R3	:	Mr.K.Balasubramani Special Government Pleader

ORDER

This writ petition has been filed challenging the demand notice issued by the 2nd respondent dated 18.11.2023.

2. The learned counsel appearing for the petitioner submits that as against the order of the appellate authority dated 24.05.2013 and consequential proceedings of the second respondent/The Commissioner, Karur Municipal Corporation, dated 30.10.2013 and 11.12.2013, the petitioner herein had already filed writ petitions before

this Court in W.P.(MD)Nos.19905 and 20910 of 2013. In these writ petitions, this Court has given a specific direction to the Chairman, Appellate Authority for tax, Karur Municipality, who is the third respondent herein, to provide opportunity to the petitioner before passing orders. However, no such opportunity was provided to the petitioner. Once again, a similar order has been passed without any basis and without giving any calculation.

3. The learned Special Government Pleader appearing for the respondents 1 to 3 submits that the petitioner is having a commercial building of three floors to an extent of 15508 sq. feet. However, he has obtained permission only for 6295 sq. ft. and he has also renovated the building, for which, the tax was assessed on 01.04.2000. A demand notice for the assessment year 2001-2002 was issued on 22.11.2005 and subsequently, another demand notice was issued in the year 2006 demanding the petitioner to pay Rs.1,09,185/-. As against the same, the petitioner has preferred an appeal before the 3rd respondent, which

is pending. The petitioner has also filed a suit in O.S.No.149 of 2007 before the District Munsif Court, Karur, seeking to restrain the 2nd respondent from receiving property tax till the disposal of the appeal. The said suit was by the District Munsif Court, Karur. Challenging the same, the petitioner preferred an appeal in A.S.No.99 of 2010 before the Sub Court, Karur and the same was allowed by order dated 19.10.2012 with a direction to the authority to conduct an enquiry after providing an opportunity to the petitioner in the appeal. As per the directions in the first appeal, the 3rd respondent has issued a notice dated 23.04.2013 requiring the petitioner to appear for enquiry on 25.04.2013. Thereafter, the petitioner requested the third respondent to reschedule the enquiry date. At the request of the petitioner, the date of enquiry was rescheduled on 02.05.2013 and again, it was rescheduled on 20.05.2013. Even then, the petitioner has failed to appear for enquiry.

4. This Court considered the rival submissions made.

5. In the writ petitions filed by the petitioner in W.P.(MD)Nos. 19905 and 20910 of 2013, this Court, on 16.08.2022, has passed the following orders:

> "8. In view of the above said discussion, this Court passes the following order:
>
> "(i) The impugned order in W.P.(MD)No. 19905 of 2013 and the consequential order in W.P.(MD)No.20910 of 2013 are hereby set aside.
>
> (ii) The matter is remitted back to the file of the third respondent herein and he shall pass orders, after giving due opportunity to the writ petitioner on merits and in accordance with law.
>
> (iii) Till orders are passed by the third respondent herein, no coercive steps shall be taken to recover the enhanced property tax from the writ petitioner."

6. The main contention of the petitioner is that though this Court directed the respondents to pass orders after providing due opportunity

to the petitioner, the said direction was not complied. Therefore, the petitioner has filed this writ petition with a grievance that the impugned demand notice dated 18.11.2023 has been issued without providing him an opportunity and without following the directions of this Court passed in W.P.(MD)Nos.19905 and 20910 of 2013.

7. There is no reference about the opportunity provided in the impugned demand notice. In view of the same, this Court is inclined to set aside the impugned demand notice that the earlier direction of this Court in W.P.(MD)Nos.19905 and 20910 of 2013 has not been complied with.

8. Accordingly, this writ petition is allowed and the impugned notice dated 18.11.2023 issued by the second respondent is set aside. Since the appeal is pending before the 3rd respondent, this matter is remitted back to the 3rd respondent for fresh consideration. The 3rd respondent shall conduct an enquiry on 30.01.2024 and pass a detailed

order as to how the tax amount has been arrived, within a period of two weeks from thereon. The petitioner shall either appear-in-person or through his representative before the 3rd respondent along with his objections, if any, on 30.01.2024 without expecting any separate notice from the 3rd respondent and make out his case before the 3rd respondent. In the meantime, the petitioner is also directed to pay a sum of Rs.10 lakhs (Rupees ten lakhs only) to the respondent corporation, without prejudice to his objections, if any, on or before 30.01.2024. No costs. Consequently, connected miscellaneous petitions are closed.

12.01.2024

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

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B.PUGALENDHI, J.

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