BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)Nos.7087 to 7089 of 2024
and
W.M.P.(MD)Nos.6549, 6550, 6579, 6584, 6590 and 6593 of 2024

V.Sundhar ... Petitioner in all W.Ps.

versus

1. The Kumbakonam City Municipal Corporation,
   through its Commissioner,

2. The Assistant Commissioner (Revenue),
   Ward No.18, Kumbakonam Municipal Corporation,
   Thiruvidaimaruthur Road,
   Kumbakonam, Thanjavur District. ... Respondents in all W.Ps.

Prayer in W.P.(MD)No.7087 of 2024: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records of the impugned demand notice dated 21.02.2024 on the file of the 2nd respondent in respect of assessment No.105/018/900903, in Ward No.18 of Kumbakonam

Municipal Corporation demanding property tax from 2019-2020 and quash the same.

<u>Prayer in W.P.(MD)No.7088 of 2024:</u> Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records of the impugned demand notice dated 21.02.2024 on the file of the 2nd respondent in respect of assessment No.105/018/901424, in Ward No.18 of Kumbakonam Municipal Corporation demanding property tax from 1990-1991 and quash the same.

<u>Prayer in W.P.(MD)No.7089 of 2024:</u> Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records of the impugned demand notice dated 21.02.2024 on the file of the 2nd respondent in respect of assessment No.105/018/901423, in Ward No.18 of Kumbakonam Municipal Corporation demanding property tax from 1988-1989 and quash the same.

For Petitioner
in all W.Ps. : Mr.Lakshmi Shankar

For Respondents
in all W.Ps. : Mr.Panneer Selvam

COMMON ORDER

W.P.(MD)No.7087 of 2024 has been filed as against the notice dated 21.02.2024 in respect of Assessment No.105/018/900903, in Ward No.18 of Kumbakonam Municipal Corporation, demanding property tax from 2019-2020 .

2. W.P.(MD)No.7088 of 2024 has been filed as against the notice dated 21.02.2024 in respect of Assessment No.105/018/901424, in Ward No.18 of Kumbakonam Municipal Corporation, demanding property tax from 1990-1991.

3. W.P.(MD)No.7089 of 2024 has been filed as against the notice dated 21.02.2024 in respect of Assessment No.105/018/901423, in Ward No.18 of Kumbakonam Municipal Corporation, demanding property tax from 1988-1989.

4. The learned counsel appearing for the petitioner submits that petitioner has obtained this property by way of settlement only in the year 2004. However, the second respondent has issued three impugned demand notices dated 21.02.2024 for Assessment Nos. 105/018/900903, 105/018/901424, 105/018/901423. He further submits that with regard to the Assessment No.105/018/900903, the second respondent has demanded the property tax from the year 2019-2020 to 2023-2024 and for the Assessment No.105/018/901424, demanded the property tax from the year 1990-1991 to 2023-2024 and for the Assessment No.105/018/901423, the second respondent has demanded the property tax from the year 1988-1989 to 2023-2024. According to him, for the Assessment No.105/108/900903, the petitioner has already paid the property tax till date. With regard to other two assessment numbers, the property tax has been demanded from the year 1990-91 and 1988-89 till date, for which period, the petitioner was not in possession of that property.

5. The learned counsel appearing for the petitioner further submits that the demand raised after a period of 12 years is barred as per Section 482 of the Coimbatore City Municipal Corporation Act. He further submits that the impugned demand notices have been issued without providing an opportunity of hearing.

6. Mr.Panneer Selvam, learned counsel for the respondent Corporation submits that if the petitioner is aggrieved over the impugned demand notices, he is having a remedy under Section 100 of the Tamil Nadu Urban Local Bodies Act before the Tax Appellate Committee.

7. This Court considered the rival submissions made.

8. The petitioner claims that he has obtained this property by way of settlement only in the year 2004. He further claims that this property is a single building and all along, he has been paying the

property tax in Assessment No.105/018/900903 till date. But, the second respondent has issued the impugned notices dated 21.02.2024 demanding the property tax for three portions of building in three assessment numbers, from the years 2019-2020, 1990-91 and 1988-89 respectively. It appears that in the impugned demand notices, there is no reference of providing an opportunity of hearing to the petitioner.

9. Rules 7 to 10 of Schedule of IV of the Tamilnadu District Municipalities Act, 1920, enable the Corporation to provide an opportunity of hearing to the assessee, before passing of any provisional order of assessment.

10. In this case, the impugned demand notices have been issued without providing an opportunity of hearing to the petitioner and that too from the years 1988-89 and 1990-91 for two portions of the building.

11. On this limited ground, the impugned demand notices dated 21.02.2024 issued in respect of assessment Nos.105/018/900903, 105/018/901424 and No.105/018/901423 are hereby set aside and the writ petition is allowed, with a direction to the respondents to conduct an enquiry, by providing an opportunity of hearing to the petitioner and thereafter, assess the property tax afresh for the above said assessment numbers and pass orders of assessment to that effect. The petitioner, without expecting any separate notice, shall appear before the second respondent for enquiry on 04.04.2024. The second respondent shall also provide the details with regard to the calculation of property tax for the three assessment numbers. No costs. Consequently, connected miscellaneous petitions are closed.

26.03.2024

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

Note: Issue order copy today.

B.PUGALENDHI, J.

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To

1. The Commissioner,
   Kumbakonam City Municipal Corporation,
   Kumbakonam,
   Thanjavur District.

2. The Assistant Commissioner (Revenue),
   Ward No.18, Kumbakonam Municipal Corporation,
   Thiruvidaimaruthur Road,
   Kumbakonam,
   Thanjavur District.

W.P.(MD)Nos.7087 to 7089 of 2024

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