BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.04.2024**

CORAM:

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

W.P.(MD) No.8450 of 2024
and
W.M.P.(MD) Nos.7654 and 7656 of 2024

Anandh @ Anandha Perumal ... Petitioner

/vs./

1.The Commissioner,
Madurai City Municipal Corporation,
Madurai.

2.The Assistant Commissioner,
Madurai City Municipal Corporation,
Madurai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned demand notice issued by the 1st respondent in his proceedings Nil dated 19.06.2023 and quash the same as illegal, consequently directing the 1st respondent to re-assess the Tax for the period 2004 to 2014 in accordance with old assessment method in respect of the No. 18, Lajapathi roy Road, Chinna Chokkikulam, Madurai and refund the excess Tax paid by the petitioner.

For Petitioner : Mr.Lenin Kumar

For Respondents : Mr.K.K.Kannan
Standing Counsel

ORDER

The petitioner has filed this writ petition for a Certiorarified Mandamus to call for the records pertaining to the impugned demand notice issued by the first respondent dated 19.06.2023, to quash the same and to direct the first respondent to re-assess the tax for the period 2004 to 2014 in accordance with old assessment method.

2.By the impugned demand notice, the respondents are demanding the total sum of Rs.4,91,160/- being the property tax, penalty thereon, SUC, UGD charges, water charges etc., for the assessment years 2011-2012-I to 2023-2024-II. The specific case of the petitioner is that the petitioner's father, an employee of the respondent Corporation, had put up a construction in the year 2004 and had obtained permission for putting up the construction. However, the respondents failed to come and assess the property despite the notice to the respondents to assess the property and to revise the property tax, in view of the additional construction made by the petitioner. The learned counsel for the petitioner would fairly submit that there are certain deviations and constructions have been made in excess of the approved building plan.

3.It is submitted by the learned counsel for the petitioner that the petitioner had also filed a suit before the Additional District Munsif Court, Madurai in O.S.No.258 of 2019 and the Court has dismissed the suit. Further, he would submit that the respondents are demanding tax at the same rate for the period of 2011-2012 uniformly without proper inspection and have further revised the tax for the subsequent assessment years. It is therefore submitted that the demand that has been made in the impugned demand notice dated 19.06.2023 is liable to be quashed.

4.The learned Standing Counsel for the respondents would submit that the approval was for construction of 1705 sq.ft., built-up area in ground floor and first floor, whereas the actual construction is 2832 sq.ft., It is submitted that inspection was also carried out, pursuant to which demand notices were issued, whereby the petitioner has been called upon to pay a sum of Rs. 14,201/- as tax payable by the petitioner for the assessment years 2014-2015 to 2016-2017.

5.The learned Standing Counsel for the respondents, on the other hand, would submit that the petitioner has wrongly invoked the jurisdiction of the civil Court in O.S.No.258 of 2019, which was rightly rejected by the Court, while passing the judgment and decree on 15.07.2022. The learned Standing Counsel for the respondents would draw attention to the admission of the petitioner in the aforesaid suit in para 7.5, wherein the Court has recorded that during cross-examination, the petitioner as P.W1 had admitted the tax liability and paid the tax for the assessment years 2014-2015 to 2016-2017. He would further submit that the demands made are only the consequential demands and therefore, there is no merit in the present writ petition. The learned Standing Counsel for the respondents would further submit that in any event the petitioner has an alternate remedy before the Taxation Appeals Committee under Section 100 of the Tamil Nadu Urban Local Bodies Act, 1998, which is come into force with effect from 13.04.2023.

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

7.There is no merit in the present writ petition, as the petitioner is indeed liable to pay tax. The facts on record also indicate that the petitioner is admitted the tax liability as was determined by the respondents for a sum of Rs.14,201/- for the six half yearly between 2014-2015 to 2016-2017 and paid a sum of Rs. 85,206/-. In any event, it is for the petitioner to agitate the issue before the appellate forum under the provisions of Tamil Nadu Urban Local Bodies Act, 1998, which is come into force with effect from 13.04.2023.

8.Under these circumstances, the Writ Petition is dismissed with liberty to the petitioner to approach the Taxation Appeals Committee under Section 100 of the aforesaid Act within a period of 30 days from the date of receipt of a copy of this order. The respondents shall refrain from initiating any recovery proceedings against the petitioner for a period of 30 days from the date of receipt of a copy of this order. The petitioner shall pre-deposit the amount as it contemplated under the Act. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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03.04.2024

C.SARAVANAN, J.

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