BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.21951 of 2024
and
W.M.P.(MD)Nos.18593 and 18595 of 2024

A.Thangavel ... Petitioner

Vs.

1.The Commissioner,
Thoothukudi Corporation,
Thoothukudi,
Thoothukudi District.

2.The Superintendent / Assistant Revenue Officer,
Thoothukudi Corporation,
Thoothukudi,
Thoothukudi District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned demand notice issued by the first respondent in his proceedings in M.F.No. 25-I-II, dated 02.08.2024 in respect of Tax Assessment Nos. 138/038/901-489, 138/038/901-490, 138/038/901-495, 138/038/901-496, 138/038/901-497, 138/038/901-498, 138/038/901-499, 138/038/901-501, and 138/038/901-502, and quash the same as illegal and consequentially to direct the respondents to re-assess the property tax in respect of the above Tax

Assessment Nos by providing an opportunity to the petitioner within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Ajmal Khan
Senior Counsel
For M/s.Ajmal Associates

For Respondents : Mr.N.Ananda Kumar
Standing Counsel

O R D E R

The present Writ Petition is filed challenging the impugned demand notice dated 02.08.2024, whereby the property tax fixed for the financial year 2022-2023 was again enhanced for the financial year 2024-2025 in respect of nine shops. The impugned demand notice is challenged on the premise that the same is made in gross violation of principles of natural justice.

2. The petitioner is running a shopping mall in the name of 'Velavan Hyper Market' in Thoothukudi District. It is stated that the petitioner had obtained necessary permission from the appropriate authorities for running the shopping mall and had also paid appropriate taxes without any default. While so, the petitioner was served with the impugned notice enhancing and demanding property tax for the financial year 2024-2025 in respect of nine shops.

3. It is submitted by the learned counsel for the petitioner as well as the learned Standing Counsel for the respondents that the issue stands covered by the decision of this Court in ***W.P.(MD).No.21618 of 2024 dated 11.09.2024 (Chandrasekaran Vs. The Commissioner, Thoothukudi Corporation, Thoothukudi),*** wherein, this Court observed as follows:

> *"3. It is submitted by the learned counsel for the petitioner that any enhancement of taxes ought to be made in compliance with the procedures contemplated under Chapter VIII of the Tamil Nadu Urban Local Bodies Rules, 2023. It is submitted that prior to the demand notice, no copy of the assessment order has been served to enable the petitioner to submit his objection. It was submitted that non compliance of the above procedure contemplated under the Tamil Nadu Urban Local Body Rules results in vitiating the entire proceedings.*
>
> *4. The learned counsel for the respondent would submit that this is not enhancement of taxes, instead the demand was only in view of the fact that the return filed by the petitioner is incorrect or incomplete inasmuch as the extent of occupation was greater than what has been disclosed.*

5. Assuming the above submission to be correct, nevertheless if the authorities were to proceed on the basis/belief that the returns filed by the petitioner are incorrect or incomplete, it is incumbent on the authority concerned to comply with the procedures contemplated under Chapter VIII of the said Rules and failure to comply with the same vitiates the entire proceedings.

6. At this juncture, the learned Standing Counsel for the respondent would seek liberty of this Court to redo the assessment in compliance with Chapter VIII of the Tamil Nadu Urban Local Bodies Rules, 2023.

7. In view thereof, the impugned demand notice dated 01.08.2024 is set aside and the respondent is at liberty to proceed with the assessment in accordance with law."

4. Following the above decision of this Court, the impugned demand notice is set aside and the respondent is at liberty to proceed with the assessment in accordance with law.

5. Accordingly, this Writ Petition is disposed of in terms of order passed by this Court in W.P.(MD)No.21618 of 2024 dated 11.09.2024. No costs. Consequently, connected miscellaneous petitions are closed.

19.10.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

1.The Commissioner,
Thoothukudi Corporation,
Thoothukudi,
Thoothukudi District.

2.The Superintendent / Assistant Revenue Officer,
Thoothukudi Corporation,
Thoothukudi,
Thoothukudi District.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.21951 of 2024

19.10.2024