BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.23699 of 2024
and
W.M.P(MD)No.20066 of 2024

Sundar Srinivasan ... Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Madurai. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for entire records relating to impugned proceedings of the respondent in letter No.M2AAB6/00646/2024, dated .08.2024 signed on 27.08.2024 and quash the same as illegal and pass such other or further orders as this Court.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondent : Mr.F.Deepak

ORDER

By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The present writ petition is filed challenging the impugned proceedings, dated 27.08.2024, whereby the property tax was enhanced from Rs.11,000/- to Rs.24,724/- with effect from 01.04.2022. This is the second round of litigation.

3. In the earlier round of litigation, the petitioner had challenged the demand notice, dated 18.11.2023 in W.P(MD)No.392 of 2024 and this Court vide its order, dated 09.01.2024 was pleased to record the submission of the respondent that the notice under challenge was only a show cause notice and that the petitioner may submit its explanation and if such explanation is submitted, the same would be considered and orders would be passed after providing an opportunity of hearing.

4. It is submitted by the learned Counsel for the petitioner that pursuant to the above orders of this Court, the petitioner had submitted its objection vide

letter, dated 31.01.2024, wherein, it was submitted that the properties within the city limit, which was used for commercial purpose, the property tax is being levied at Rs.4.50/- per square feet, whereas the subject property which is used for residential purposes is sought to be subjected to tax at Rs.14/- per square feet. Secondly, it was also made clear that the subject property measured only 1710 square feet. Pursuant thereto, the respondent issued yet another notice on 13.02.2024 granting an opportunity of personal hearing on 27.02.2024. The petitioner appeared in person on 27.02.2024 and reiterated his objection once again.

5. It is further submitted by the learned Counsel for the petitioner that the respondent without considering the petitioner's objection has passed the impugned orders of assessment. It is the case of the petitioner that the impugned order of assessment has affirmed its proposal to enhance the property tax from Rs.11,000/- to Rs.24,724/-. However, there is not even a reference to the petitioner's reply, dated 27.02.2024 nor has any of the aspects submitted by the petitioner dealt with. As a matter of fact, it was pointed out that though the petitioner vide its reply, dated 31.01.2024 and again on 27.02.2024 made it clear that the subject property which is in occupation, is only to the extent of

1710 square feet, the impugned order however proceeds to enhance the tax on the assumption that it is more than 1800 square feet. The petitioner's objection insofar as the property which is put to commercial use is imposed property tax at Rs.4.50/- per square feet while levying property tax at Rs.14/- per square feet, in respect of the petitioner's property which is admittedly used for residential purpose also has not been dealt with. It is submitted that the impugned order is a non speaking order.

6. The learned Counsel for the respondent would however submit that the same is appealable before the Tax Appellate Tribunal and thus the writ petition ought not to be entertained.

7. While this Court is conscious of the fact that when an effective alternative remedy is available, this Court would be loathe in interfering under Article 226 of the Constitution of India. However, there are exception to the above rule of alternative remedy and one is where the order is made in violation of principles of natural justice. Natural justice has several facets. One important facet of natural justice is that while passing quasi judicial orders resulting in civil consequences, reasons must be assigned in support thereof. It also requires

that the quasi judicial authority, whose orders result in civil consequences to apply its mind to the material on record and all relevant factors.

8. This Court finds merit in the submission of the learned Counsel for the petitioner that the respondent has passed the impugned order without assigning any reason and without applying its mind to the objection. In view thereof, the impugned order is set aside. The respondent shall re-do the proceedings and pass orders afresh after granting the petitioner an opportunity of hearing. The entire exercise shall be carried out within a period of two (2) months from the date of receipt of a copy of this order.

9. This writ petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

04.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The Commissioner,
Madurai Corporation,
Madurai.

MOHAMMED SHAFFIQ, J.

BTR

W.P(MD)No.23699 of 2024

04.10.2024