BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A.(MD)No.1329 of 2022
and
C.M.P.(MD)No.10414 of 2022

S.Raman ... Appellant

Vs.

1.The Commissioner,
Sengottai Municipality,
Sengottai,
Tirunelveli District.

2.The Director of Municipal Administration,
Ezhilagam, Chennai.

3.The District Collector,
Tirunelveli District. ... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal and set aside the order dated 28.09.2022 in W.P.(MD).No.10790 of 2013 on the file of this Court.

For Appellant : Mr.T.S.R.Venkataramana, Senior Counsel,
For Ms.V.Janaki Devi.

For Respondents : Mr.P.Athimoola Pandian,
Standing Counsel for R1.
Mr.S.R.A.Ramachandran,
Addl. Government Pleader for R2 & R3.

JUDGMENT
(Judgment of the court was delivered by G.R.Swaminathan, J.)

Heard the learned senior counsel for the appellant, the learned standing counsel for Sengottai Municipality and the learned Additional Government Pleader for the respondents 2 and 3.

2.The appellant / S.Raman and his brother / S.Eswaran owned the premises bearing Door Nos.19/9A3 and 19/9A4, Ward No.6, 9/A/5, Tenkasi Road, Shengottai. It is a storied construction comprising ground floor and first floor. The ground floor portion has been leased out in favour of Canara Bank. The first floor was originally let out in favour of Agricultural department. After they vacated the property, it was let out for residential purposes.

4.It is not in dispute that revision of property tax for residential building has to be at 25%. In this case, the local body had treated the first floor as if it was led for commercial purposes and revised at the rate of 150%. This is clearly illegal. Merely because, the appellant had paid the demanded amount, that would not estop him from seeking refund. Article 265 of the Constitution of India states that any collection of tax has to be by the authority of law. Where it is demonstrated that collection was illegal, payment on the tax amount would not come in the way of seeking refund.

5.The learned senior counsel for the appellant submitted that for the ground floor portion also, the revision has to be at the rate of 50% and not 150%. He relied on the letter No.3827/Elcc/2006-2 dated 01.02.2008. The relevant portion reads as follows:-

*"**CEILING***

In respect of buildings coming under specialized category, buildings like Star hotels, Theme parks, Multiplexes, Shopping malls, Air conditioned wedding halls, Super Speciality Hospital, etc, may be treated as separate category. Separate basis value may be fixed by the concerned local body. This *overall enhancement of tax in quinquennial revision should not be exorbitant so as to cause, serve hardship to the assesses. Therefore, the following ceiling is fixed for the enhancement of taxes consequent on the quinquennial revision of property tax:*

Residential buildings (Whether owner occupied or rented)	*25%*
For Industrial Buildings	*100%*
For Commercial Buildings	*150%*

For buildings assessed in the post revision period, the following ceiling is proposed;

For buildings assessed after 1.10.07	*No revision*
For the buildings assessed between 1.4.2006 to 30.9.2006	*5%*
For the buildings assessed between 1.4.2005 to 31.03.2006	*10%*
For the buildings assessed between 1.4.2004 to 31.03.2005	*15%*
For the buildings assessed between 1.4.2003 to 31.03.2004	*20%*

In the previous revision the Government offices located in private buildings were assessed on the actual rent paid by the Department. The guidelines prescribed for the revision was not adopted in respect of Central Government / State Government *offices / Quasi Government offices run in private buildings. For the private buildings occupied by Government Departments, the above guidelines prescribed may be followed in the ensuing revision. In respect of revision of property tax for Government Buildings the enhancement of property tax is fixed at 50%."*

6.We are of the view that Canara Bank though a Government of India undertaking will not qualify to be called as Central Government / State Government Office or a Quasi Government office. Therefore, the aforesaid letter will not come to the rescue of the appellant.

7.This aspect of the matter was not noticed by the learned Single Judge. We are therefore constrained to interfere with the order impugned in this writ appeal. We permit the appellant to submit an application to the Commissioner, Sengottai Municipality seeking refund of the excess property tax amount paid by him. The Municipal Commissioner will pass a speaking order on the said application and quantify the amount refundable to the appellant and his brother (Eswaran) in respect of the first floor portion. If the appellant and his brother are not in default in respect of ground floor portion, the said amount shall be refunded. If according to the municipality, there are arrears, it will be accordingly adjusted. In any event, a speaking order shall be passed and furnished to the appellant. The appellant is at liberty to challenge the same in the manner known to law.

8.The learned senior counsel for the appellant states that the original quantification of property tax was based on erroneous and excess measurement. It is open to the appellant to bring the same to the notice of the Municipal Commissioner. If the Municipal Commissioner is satisfied that the measurement shown in the revised assessment is not correct, he shall re-measure the property before passing final order on the appellant's application.

9.The property continues to stand in the name of the mother of the appellant namely, Lakshmiammal. She is said to have been passed away some two decades back. The municipality is directed to effect mutation in favour of the legal heirs of the Lakshmiammal.

10.This writ appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.,) & (M.J.R. J.,)
25.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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G.R.SWAMINATHAN, J.
and
M.JOTHIRAMAN, J.

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(2/2)