



W.P(MD)No.24708 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 16.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24708 of 2023

and

W.M.P.(MD)Nos.20895 and 20896 of 2023

Solitaire BTN Solar Private Limited,
Rep. by its Authorized Signatory,
Vijay Kandpal.

... Petitioner

Vs.

1.Executive Officer,
Genguvarpatti Town Panchayat,
Theni District.

2.The Assistant Director,
Town Panchayat,
Theni.

3.The District Collector,
Theni.

4.The Commissioner of Town Panchayat,
MRC Nagar, Chennai-28.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of of Certiorari, calling for the



W.P(MD)No.24708 of 2023

records of the 1st Respondent in the Impugned order bearing No.Na.Ka.No.85/2019 dated 10.06.2022 and the consequential demand notice bearing No.Na.Ka.No.85/2019 dated 30.05.2023 passed by the 1st Respondent and quash the same.

For Petitioner : Mr.P.J.Rishikesh

For Respondents : Mr.R.Baskaran,
Addl. Advocate General,
Assisted by Mr.T.Villavankotahi,
Addl. Government Pleader for R1 & R4.
Mr.C.Satheesh,
Government Advocate for R2 & R3.

ORDER

Heard both sides.

2.The petitioner challenges the impugned memorandum dated 10.06.2022 whereby the first respondent had called upon the petitioner to pay a sum of Rs.4.23 Crores towards vacant land tax. The authority of the local body to raise such a demand can be justified in terms of G.O.(Ms) No.151 Municipal Administration and Water Supply (Election)



W.P(MD)No.24708 of 2023

Department dated 20.08.2009. The G.O. itself is based on Section 81(3)

(a) of the Tamil Nadu District Municipalities Act, 1920. The said provision reads as follows:-

*“[81. Description and classes of property tax .—
(3) (a) Save as otherwise provided in clause (b), the Municipal Council shall, in the case of lands which are not used exclusively for agricultural purposes and are not occupied by, or adjacent and appurtenant to, buildings, levy property tax on such lands at such rate as it may fix, having regard to its location and subject to the minimum and maximum rates per square feet as may be prescribed by the State Government.”*

While the power of the local body is not in doubt, in view of the manner in which it has been exercised, the impugned memorandum warrants interference.

3.As rightly pointed out by the learned counsel for the petitioner, spot inspection must have been conducted by the officials of the local body to ascertain the precise extent of the vacant land.



W.P(MD)No.24708 of 2023

4.As on date, administrative office buildings have been put up and solar panels have been erected. The learned Additional Advocate General for the local body would point out that the lands were purchased some time in the year 2019. Exemption from agricultural department had also been obtained in the very same year. Therefore, the lands were never used for exclusively for agricultural purposes. The solar panels were erected subsequently in point of time. According to the local body, for the intervening period, vacant land tax is leviable. These are aspects which should have been set out in the pre-assessment notice. In this case, no pre-assessment notice was issued and no enquiry was conducted. Straightaway, the impugned memorandum was issued. On this sole ground, I interfere. The impugned memorandum is set aside. The matter is remitted to the file of the first respondent. The first respondent is at liberty to issue pre-assessment notice setting out all the relevant details. It is for the petitioner to offer their objections. A summary enquiry shall be held. Thereafter, final order on merits and in accordance with law will be passed. I make it clear that I have not gone into the merits of the matter. All the contentions and defences of the petitioner are left open.



W.P(MD)No.24708 of 2023

WEB COPY

5.This writ is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

16.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:-

- 1.Executive Officer,
Genguvarpatti Town Panchayat,
Theni District.
- 2.The Assistant Director,
Town Panchayat,
Theni.
- 3.The District Collector,
Theni.
- 4.The Commissioner of Town Panchayat,
MRC Nagar, Chennai-28.



WEB COPY



W.P(MD)No.24708 of 2023

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.24708 of 2023

16.10.2023