IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

WP.No.8756 of 2015
&
MP.Nos.1 to 4/2015

V.N.Damani
No.320 (Old No.357),
Mint Street, Sowcarpet,
Chennai-79. ... Petitioner

Vs

1. The Corporation of Chennai
Rep. by its Commissioner,
Rippon Building,
Chennai-3

2. The Chennai Metropolitan Water
Supply and Sewerage Board, Rep. by its
Chairman, Head office No.1, Pumping Station,
Chintadripet, Chennai-2.

3. The Chennai Metropolitan Water
Supply and Sewerage Board, Rep. by its Area
Engineer-5, Chennai Metro Water, No.1, M.C.
Road, Anna Park,
Chennai-21. ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus to call for the records from the respondents and in particularly 3rd respondent pertaining to the impugned order dated 21.2.2015 and quash the same and cosnequently direct the respondents to make independent assessment of service charges and taxes for Drinking Water and Sewerage connection of the petitioner premises sitauted at No.320, Old No.357, Mint Street, Sowcarpet, Chennai-79.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.V.P.Selvakumar for R1 & Mr.M.Jothikumar for R2 and R3.

ORDER

Heard Mr. P.Vijendran, learned counsel for the petitioner and Mr.V.P.Selvakumar for the first respondent and Mr.M.Jothikumar for respondents 2 and 3.

2. This petition has been filed for issuance of writ of Certiorarified mandamus to call for the records from the respondents and in particularly 3rd respondent pertaining to the impugned order dated 21.2.2015 and quash the same and consequently direct the respondents to make independent assessment of service charges and taxes for Drinking Water and Sewerage connection of the petitioner premises situated at No.320, Old No.357, Mint Street, Sowcarpet, Chennai-79.

3. The petitioner challenges the demand issued by the respondent Board demanding a sum of Rs.4,28,911/- being arrears of the Water Supply and Sewerage tax with retrospective effect for the period from first half year of 1998-1999 to second half year of 2014-2015. The petitioner would state that the demand is un- reasonable without notice to the petitioner and in violation of the principles of natural justice. The petitioner has submitted a representation on 25.02.2015 to the Commissioner, Corporation of Chennai disputing the correctness of the revision of property tax with retrospective effect from 1998-1999. This objection is requested to be treated as appeal/revision and requesting for reassessment of the building. The objection given by the petitioner to the Commissioner, Corporation of Chennai, objecting the revision of property tax has been received on 26.02.2015 as could be seen from the date seal affixed by the Revenue Department, Corporation of Chennai.

4. Thus, the petitioner is contesting the revision of property tax with retrospective effect. It is seen that upto the first half year 2011-2012 receipts have been produced to show that the property tax has paid by the petitioner on the pre-revised rate at Rs.12,684/- which has been revised as Rs.58,555/-(Rupees Fifty eight thousand five hundred and fifty five only) with retrospective effect from second half year 1998-1999. The petitioner would state that there is absolutely no reason for revision of property tax with

retrospective effect as they have not put up any additional construction and the building is an old building and the constructed area remains the same and the total extent of land is only 1440 sq. feet. In any event, this objection has to be considered by the Corporation of Chennai, namely the first respondent. So far as the demand of Sewerage and Water tax at Rs.4,28,911/- is concerned, this appears to be a consequence to the revision of property tax. Even assuming that there is revision of the property tax and that by itself would entitle the Chennai Metropolitan Water Supply and Sewerage Board to demand the water and sewerage tax at enhanced rate, without notice to the petitioner and straightway initiating distrait proceedings and threating to disconnect the water supply and sewerage connection. It is submitted by the learned counsel for the respondent that pursuant to the impugned order, the water and sewerage connection has been disconnected after which the respondent paid Rs.1,00,000/-(Rupees One lakh only).

5. After hearing the submissions on either side and considering the materials placed on record, since the petitioner has objected to the revision of property tax and his objection has been submitted on 26.02.2015 and the same is pending consideration before the first respondent, in the interrugnum, the respondent-Board should not disconnect the water and sewerage connection on account of non-payment of the water and sewerage tax at enhanced rate as has been done. So far as the demand of water and sewerage tax at the existing rate (pre-revised rate) it is stated that the petitioner has paid the same and there is no arrears.

6. In the light of the above facts and taking into consideration that the petitioner has already paid Rs.1,00,000/- (Rupees One lakh only) after the water and sewerage connection was disconnected, the respondents are directed to reconnect the water and sewerage connection forthwith and thereafter, issue show cause notice to the petitioner clearly mentioning how the demand was calculated, on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order. Thereafter, it is open to the petitioner to submit their objections to the show cause notice to the respondent-Board and the respondent is directed to proceed further in accordance with law.

7. So far as retrospective revision of property tax is concerned, there will be a direction to the first respondent/Competent Authority of the Corporation of Chennai to consider the objections dated 26.02.2015, which has been submitted by the petitioner objecting the revision of property tax with retrospective effect and after affording an opportunity of personal

hearing to the petitioner, the concerned authority shall pass appropriate orders with regard to the revision of property tax from the second half year 1998-1999 to first half of 2014-2015.

8. The above direction shall be complied with by the Corporation of Chennai within a period of three weeks from the date of receipt of a copy of this order. The writ petition is disposed of with the above directions. No costs. Consequently connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dn/glp

To

1. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-3

2. The Chairman, The Chennai Metropolitan Water Supply and Sewerage Board,
Head office No.1, Pumping Station,
Chintadripet, Chennai-2.

3. The Area Engineer-5,The Chennai Metropolitan Water Supply and Sewerage Board,
Chennai Metro Water, No.1, M.C. Road, Anna Park,
Chennai-21.

+1cc to Mr.P.Vijendran, Advocate, S.R.No.16830

WP.No.8756/2015
&
MP.Nos.1 to 4/2015

JP(CO)
CA(31/03/2015)