IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19/11/2015

C O R AM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.37738 of 2002

Lions Club of Madras (Host Club)
rep by its President. ...Petitioner

Vs.

1. The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai 600 003.

2. The Assistant Revenue Officer
Corporation of Chennai
Chennai 3. ...Respondents.

Petition filed under Article 226 of the Constitution of India praying for the issuance of writ of certiorarified mandamus to call for the records in respect of impugned warrant notice of the second respondent dated 24/8/2002 on the basis of Temporary Notice G.R.S.No.(069/00187 of the respondent dated 13/1/2001 and quash the notice dated 24/8/2002 and direct the respondent to exempt under 101 (E) of MCMC Act the petitioners' Health Centre and Eye Hospital from the levy of Property Tax.

For Petitioner .. Mr.P.Haridas
Senior Counsel
for Mr.K.Shakespeare

For Respondents .. Dr.C.Ravichandran

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O R D E R

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2. Heard Mr.P.Haridoss, learned Senior Counsel for Mr.K.Shakespeare for the petitioner and Dr.C.Ravichandran for the respondents.

3. The petitioner/Lions Club of Madras, represented by its President, seek for an issuance of a writ of certiorarified mandamus to call for the records in respect of the impugned warrant notice of the second respondent dated 24/8/2002 on the basis of Temporary Notice G.R.S.No.(069/00187 of the respondent dated 13/1/2001 and quash the notice dated 24/8/2002 and direct the respondent to exempt under 101 (E) of MCMC Act the petitioners' Health Centre and Eye Hospital from the levy of Property Tax.

4. The learned Standing Counsel appearing for the respondent Corporation submitted that the impugned proceeding is only a provisional notice and it is open to the petitioner to apply to the Corporation for grant of exemption and obtain an order of exemption and without doing so, the petitioner has approached this Court and hence the writ petition may be dismissed as premature.

5. No counter has been filed on behalf of the respondents herein.

6. Under normal circumstances, this Court would have accepted the contention raised by the learned counsel appearing for the respondents, but the facts of the present case has convinced this Court to take a different view.

7. The fact that the petitioner is a Charitable Institution is not disputed by the respondent Corporation. All that is required is to be seen as to whether the building constructed by the petitioner has to be assessed to tax or whether it is exempted under the provisions of the Chennai City Municipal Corporation Act, 1999. The Government vide G.O.Ms.No.88 Housing Department dated 26/2/1997, approved the proposal of the Tamil Nadu Slum Clearance Board to lease an extent of 6624 sq.feet of land in R.S.No.19/1B part and 19/1 C part of Aminjikarai Village, Egmore - Nungambakkam Taluk, Madras City, in favour of the Lions Club of Madras at a nominal rent of Rs.100/-per annum for the construction of a building for running a hospital.

8. Thus, the Government, while issuing the said G.O., was fully satisfied with the petitioner organisation and the land was leased out to run a Hospital. The petitioner, after accepting the conditions, constructed the Hospital and has been running the Hospital from 1977 onwards.

9. At this stage, it would be relevant to refer to the note submitted by the Chairman of Tamil Nadu Slum Clearance Board to the Government with regard to the proposal to grant lease of land to the petitioner from which it is clear that the Board was fully satisfied that the petitioner Organisation will render service by running a hospital to the public of that area, who are all slum dwellers.

10. Under such circumstances, the respondent Corporation can have no doubt as regards the applicability of the provision for exemption from property tax. This appears to have been the understanding of the respondent Corporation till 1995 when for the first time, a notice was issued to assess the building to property tax.

11. The petitioner submitted a detailed representation on 9/9/2015 to the Commissioner of the Corporation, stating that there is absolutely no justification to assess the building to property tax and to fix annual value of the building and therefore, requested withdrawal of the provisional notice. The petitioner also produced the certificate issued by the Director of Social Welfare and Nutritious Meal Programme stating that the petitioner is running a Health Centre in the said area and rendering free social service to the public.

12. Since the respondent corporation did not take any appropriate action, the petitioner approached this Court by way of a writ petition in W.P.No.10809 of 1998 seeking for a declaration to declare the Health Centre and the Eye Hospital run by the petitioner club at No.1 T.P.Chatram Main Road, Shenoy Nagar, Chennai 30 is exempted from property tax by the first respondent therein and from water and sewerage and drainage tax from the second respondent therein. The said writ petition was disposed of with a direction to the authorities by an order dated 16/9/1998.

13. Pursuant thereto, no orders have been passed on the petitioner's representation and all of a sudden, the impugned demand has been served on the petitioner.

14. Section 101 of the Act deals with General exemptions and it states that the building and lands mentioned under the said Section are exempted from property tax and clause (e) under Section 101 would be relevant which deals with the building were Charitable hospitals and dispensaries are being run are exempted from property tax. Thus statutory provisions clearly exempts a charitable hospital and dispensaries from the levy of property tax and there can be no doubt that the petitioner organisation is a charitable organisations carrying on charitable activity in the said building which has been duly certified by the officials themselves. Therefore, the Corporation is bound by the decision taken by the Government vide G.O.Ms.No.88 as well as by the certificate issued by the Director of Social Welfare and Nutritious Meal Programme.

15. Without considering the aforestated aspects, the respondent Corporation is not entitled to demand property tax from the petitioner in respect of the building where charitable activities are being carried on. Under normal circumstances, where there is a doubt whether any charitable

activities are being conducted, the respondents may be justified in stating that they are entitled to consider the plea of exemption in accordance with law.

16. However, in the instant case, there can be no doubt on this aspect, since the Government themselves while issuing the G.O.Ms.No.88 dated 26/2/1997 approved the proposal submitted by the Slum Clearance Board that the land is required for a charitable hospital. Hence the benefit of exemption should automatically accrue in favour of the petitioner, who is running the hospital.

17. In the result, this writ petition is allowed and the impugned proceedings are quashed and the respondents are directed to issue necessary orders exempting the petitioners building under the provisions of Section 101 (e) of the Madras City Municipal Corporation Act by considering the petitioner's representation dated 19/3/2001 sent through their counsel. The petitioner is directed to forward a copy of the said representation along with a copy of this order and the order in W.P.No.10809 of 1998 dated 16/9/1998 within eight weeks of the date of receipt of the representation. No costs. Consequently, the connected Miscellaneous Petition is closed.

mvs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai 600 003.

2. The Assistant Revenue Officer
Corporation of Chennai
Chennai 3.

+ 1 cc to Mr.K.Shakespeare, Advocate Sr 62906.

+ 1 cc to Dr.C.Ravichandran, Advocate Sr 62692.

W.P.No.37738 of 2002

SK/CO
KR/10/12