IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.26341 of 2011

Asha Nivas Social Service Centre,
Registered Society No.146/1976,
Rep. By its President,
No.9, Rutland Gate, 5th street,
Chennai - 6. ... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary,
Department of Municipal Administration
and Water Supply,
Fort St. George,
Chennai - 9.

2.The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai - 3.

3.The Revenue Officer,
Corporation of Chennai,
Ripon Building,
Chennai - 3.

4.The Assistant Revenue Officer,
Zone V, Corporation of Chennai,
183, Poonamalle High Road,
chennai - 10.

5.The Managing Director,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai - 2.

6.The Senior Accounts Officer,
Area V Office,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.227, Near 12th main road,
2nd avenue, Anna Nagar,
Chennai - 40. ... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of certiorari to call for the records relating to the impugned demand notice (provisional notice) dated 14.09.2009 issued by the fourth respondent demanding a sum of Rs.70,324/- towards property tax for the petitioner's Asha Nivas Working Women's Hostel situated at No.35, Railway Colony, 3rd street, Metha Nagar, Chennai - 29, and quash the same.

For Petitioner : Mr.P.Godson Swaminath

For R1 : Mr.A.Zakir Hussain, GA
For R2 to R4 : Mr.C.Ravichandran
For R5 & R6 : Mr.M.Jothikumar

ORDER

Heard Mr.P.Godson Swaminath, learned counsel for the petitioner and Mr.A.Zakkir Hussain, learned Government Advocate for the first respondent and Mr.C.Ravichandra, learned standing counsel for the respondents 2 to 4 and Mr.M.Jothikumar, learned standing counsel for the respondents 5 and 6, and with their consent, the writ petition itself is taken up for disposal.

2. The petitioner has filed this writ petition challenging the demand notice issued by the respondent Corporation demanding the property tax at the rate of Rs.70,324/- with effect from 1/2009-10.

3. The petitioner's case is that they are a registered Charitable Society under the Societies Registration Act having Registration No.146 of 1976. The main objects of the society being to provide facilities to poor women folk so as to get them education and employment and to help the weaker sections of the society with special reference to women and children in the city slums, apart from other charitable activities. In the premises in question, the petitioner would state that the following activities are being carried on;

(i) Working women's hostel
(ii) All women service center
(iii) Shelter home for boys
(iii) Shelter home for girls
(iv) Drop-in center for boys

The petitioner in the affidavit filed in support of the writ petition has explained as to who are all the class of beneficiaries in respect of the above said activities carried on in the premises. On a prima-facie perusal of these activities, it is seen that the same are done with charitable disposition to help destitute women and children with adequate care and protection.

4. The petitioner is said to have received an award from the Hon'ble Chief Minister during 2004 recognizing the institution as the best institution for the outstanding services rendered for women welfare. The Government has also nominated the President of the petitioner Society Rev.Dr.Kurian Thomas, as a member of the Multi-disciplinary Grant-in-aid Committee. Further, the petitioner organization has been chosen for running special school for the child labours under the National Child Labour Project (NCLP). The petitioner organization is also registered with the Directorate of Social Defence under Section 34(3) of Juvenile Justice (Care & Protection of Children) Act and Rules, Orphanages & Other Charitable Homes (Supervision and Control) Act and Rules. The Central Government has released a grant in favour of the petitioner towards empowerment of women and child development. Further, the petitioner organization has been granted exemption under Section 27(1) of the Urban Land Tax Act by Government Order dated 12.04.1978. With these facts, learned counsel for the petitioner submitted that in terms of Section 101 (b) of the Chennai City Municipal Corporation Act, 1919, (in short “CCMC Act”), the petitioner is entitled for exemption from property tax.

5. Counter affidavit has been filed by the second respondent which has been adopted by the first respondent, wherein they have stated that the nature of activities conducted by the petitioner would not fall within the scope of Section 101 (b) of the CCMC Act. Further, it is submitted that the petitioner society are collecting monthly rent from the occupants of the working women hostel and they have not produced any proof for utilization of the funds for charitable purposes. Thus, the counter affidavit seeks to justify their action in demanding property tax.

6. After hearing the learned counsel appearing on either side and perusing the materials placed on record, this Court is of the view that if the petitioner seeks for exemption from the provisions of the Act and they seek to bring the nature of the activities within the ambit of anyone of the clauses mentioned in Section 101 of the CCMC Act, then they should make a specific request/application in that regard. If such application is filed, then the respondent Corporation can examine as regards the nature of the activities done by the petitioner and whether no rent is charged for occupation of the building and if rent is charged whether it is exclusively used for charitable purposes. In fact, after the impugned demand notice was issued, the petitioner has filed their objections / representation, which is also pending consideration before the respondent Corporation.

7. In the light of the above, while directing the respondent Corporation to keep the impugned proceedings in abeyance, there will be a direction to the petitioner to submit an application seeking for exemption in terms of Section 101 of the CCMC Act within a period of four weeks from the date of receipt of a copy of this order, and along with the application, the petitioner also should enclose all the relevant materials to justify their claim. On receipt of such application, the respondent Corporation shall nominate the Senior Officer for inspection of the premises which should be done after notice to the petitioner. On completion of inspection, a report be submitted to the Commissioner and after hearing the petitioner in person, the respondent Corporation is directed to take a decision in the application for grant of exemption. The above exercise shall be completed within a period of three months from the date on which the application for exemption is made in terms of the above directions.

8. In fine, the writ petition is disposed of. No Costs. M.P.No.1 of 2011 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Department of Municipal Administration and Water Supply,
Fort St. George, Chennai - 9.

2.The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai - 3.

3.The Revenue Officer,
Corporation of Chennai,
Ripon Building, Chennai - 3.

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6.The Senior Accounts Officer,
Area V Office,
Chennai Metropolitan Water Supply and Sewerage Board,
No.227, Near 12th main road,
2nd avenue, Anna Nagar, Chennai - 40.

+1cc to M/S.Isaac Mohanlal, Advocate Sr.47860
+1cc to Dr.C.Ravichandran, Advocate Sr.47573

W.P.No.26341 of 2011

ak[co]
srg 12/09/2016