IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25694 of 2016 &
W.M.P.No.22018 of 2016

Rev.S.Jacob Selvan,
S/o.Rev.P.Samuel,
Presbyter/Chairman,
Loving Sheperd Church,
No.R1-21, Welcome Colony,
Anna Nagar West,
Chennai-600 101. .. Petitioner

Versus

1.The Senior Accounts Officer,
Chennai Metropolitan Water Supply
and Sewerage Board,
Head Office: No.1, Pumping Station Road,
Chintadripet, Chennai-600 002.

2.The Area Engineer,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, T.S.Krishna Nagar,
Mugappaire, Chennai-600 037. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records relating to the demand notices sent by the respondents dated 12.07.2016, 18.07.2016 and 19.07.2016 bearing No.07/090/05870/000 and quash the same.

For Petitioner : Mr.A.R.Nixon

For Respondents : Mr.Jothikumar
Standing Counsel

O R D E R

Heard Mr.A.R.Nixon, learned counsel appearing for the petitioner and Mr.Jothikumar, learned Standing Counsel, accepting notice on behalf of respondents. With the consent of the learned counsel on either side, the Writ Petition itself is taken up for final disposal.

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2. The petitioner represents a Church which comes under the Loving Shepered Pastorate which comes under the control of Diocese of Madras and under the jurisdiction of the Church of South India Trust Association.

3. In this Writ Petition, the petitioner has challenged the distraint proceedings initiated by the respondent-Board demanding Water and Sewerage tax from the petitioner-Institution. It is seen that the petitioner had filed an Appeal before the Taxation Appeal Tribunal, Greater Corporation of Chennai, Chennai Metro Water Supply and Sewerage Board in M.W.S.T.A.No.46/2015. In fact, this Appeal was taken on file by the Tribunal, after the Writ Petition filed by the petitioner before this Court in W.P.No.2914 of 2011 was transferred to the Tribunal, after its constitution. The Tribunal, by order dated 30.06.2016 has passed an order in favour of the petitioner. The operative portion of the order reads as follows:-

> " Points for consideration:
> (i) Whether the Appellant is liable to pay the Water tax as demanded by the respondent?
> (ii) To what relief the Appellant is entitled?
>
> Point No.(i):
> The Appellant preferred a Writ Petition as against the enhancement of Annual Value and the property tax in W.P.No.14149 of 2010 and obtained an order of interim injunction not to claim on the basis of enhancement of tax and on the basis of the Annual Value. The above Writ Petition is still pending.
> Under such circumstances, on the basis of the Annual Value enhanced by the Corporation, the respondent cannot calculate the Water tax and demand the same from the Appellant. Till the disposal of the Writ Petition, the respondent cannot claim the Water tax on the enhanced Annual Value. However, the Appellant shall continue to pay the Water and Sewerage tax at the pre-revised rate.
>
> Point No.(ii):
> In the result, the respondent is restrained to demand the Water & Sewerage tax on the basis of the impugned demand notice dated 31.01.2011 in respect of CMC No.20/923/0700/000051, dated 10.12.2010 and consequential disconnection notice bearing No.5760, dated 31.01.2011 of the third respondent. However, the Appellant shall continue to pay the Water and Sewerage tax at the pre-revised rate.
>
> Accordingly, the Appeal is disposed."

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In terms of the above order, the respondent-Board has been restrained to demand Water and Sewerage tax on the basis of the demand notice dated 31.01.2011 in respect of notice dated 10.12.2010 and consequential dis-connection notice dated 31.01.2011. However, there is a direction to the petitioner to pay Water and Sewerage Tax at the pre-revised rate. Though this order pertains to an earlier demand notice, it is needless to state that the subsequent demands also cannot be made because the same is on the basis of the demand, which was raised on 31.01.2011. Since there is an order passed by the Tribunal, as long as the order is modified in a manner known to law, the respondents are restrained from initiating any proceedings against the petitioner.

4. Accordingly, the impugned proceedings shall remain stayed till the respondent-Board initiates appropriate action, challenging the order passed by the Tribunal. Until then, the petitioner shall continue to pay the Water and Sewerage Tax at pre-revised rate.

5. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

r n s
To
1.The Senior Accounts Officer,
Chennai Metropolitan Water Supply
and Sewerage Board,
Head Office: No.1, Pumping Station Road,
Chintadripet, Chennai-600 002.

2.The Area Engineer,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, T.S.Krishna Nagar,
Mugappaire, Chennai-600 037.

+ 1 cc to M/s. A.R. Nixon, Advocate SR.41790

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RP(CO)
Eu 12.08.16

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