IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.28322 of 2016

and WMP Nos.24432 & 24433 of 2016

A.A.Jahabar Nachia .. Petitioner

Vs

1.Chennai Metro Water Supply and Sewerage Board, Rep. by its Chairman and Managing Director, No.1, Pumping Station Road, Chintadripet, Chennai 600 002.

2.The Senior Accounts Officer, New Area-06 Office, No.3, Vadivelu II Cross Street, Perambur, Chennai 600 011. .. Respondents

Prayer : The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for the records relating to the demand notice dated 13.07.2016 of the second respondent and quash the same.

For Petitioner : Mr.K.Lavan

For Respondents : Mr.M.Jothikumar

O R D E R

Heard Mr.K.Lavan, learned counsel for the petitioner and Mr.M.Jothikumar, learned Standing Counsel accepts notice on behalf of the respondents.

2.In this writ petition, the petitioner challenges the demand notice issued by the CMWSSB demanding the Water and Sewerage tax at revised rates from second half year of 2003 upto first half year of 2016. The case of the petitioner is that before issuing the demand, demanding enhanced rate of tax no order of assessment was issued to the petitioner and without notice, the tax has been revised. Further, it is submitted that the annual value of the building has been revised by the respondent Corporation of Chennai and when they issued a warrant notice, the petitioner had challenged the same by filing a Writ

Petition in W.P.No.28381 of 2004 and an order of interim stay was granted and the Writ Petition stands transferred to the Tribunal. If such is the situation, then it is obviously clear that the annual value of the building is yet to be finalised and in such circumstances demanding enhanced Water and Sewarage tax does not arise as the fixation of water and sewerage tax is solely based on the fixation of the property tax.

3.That apart, there is nothing to show that proper procedure of assessment was followed. Had the respondent issued a notice of pre-assessment to the petitioner proposing to levy higher rate of tax, that too, with retrospective effect, that above facts would have been placed by the petitioner before the respondent. This having not been done has resulted in an arbitrary demand being issued.

4.In the light of the above, the impugned demand shall be kept in abeyance till the fixation of the annual value of the petitioner's building is decided by the Tribunal in the pending appeal. Till such decision, the petitioner shall continue to remit the Water and Sewerage Tax at the pre-revised rate without default.

5.It is submitted by the learned Standing counsel appearing for the respondents that even for the pre revised rate, there is a defaul in payment. If that be so, then the petitioner shall clear the entire arrears of Water and Sewerage rate at the pre-revised rate (Old rate) within a period of two weeks from the date of receipt of a copy of this order. Since the petitioner is not aware as to what is the exact amount of arrears by calculating the same at the pre-revised rate, the petitioner is directed to approach the second respondent, who shall give him the calculation and without disputing the calculation the petitioner shall pay the arrears.

6.With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS)

/true copy/

Sub Asst. Registrar

To

1.The Chairman and Managing Director,
Chennai Metro Water Supply and
Sewerage Board, No.1, Pumping Station Road,
Chintadripet, Chennai 600 002.

2.The Senior Accounts Officer,
New Area-06 Office,
No.3, Vadivelu II Cross Street,
Perambur, Chennai 600 011.

+1 cc to Mr.K.Lavan, advocate,sr.46544.

pa(co)
krd 29/8

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and
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