IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2016

Coram

The Hon'ble Mr.Justice T.S.SIVAGNANAM

Writ Petition No.33748 of 2016

&

W.M.P.Nos.29121 and 29122 of 2016

Joy Journammal Good Hope Convent
rep by its Correspondent
No.1(1), Jaganatha nagar 1st main road
Jaganthan nagar, Arumbakkam
Chennai-600 106 ...Petitioner

Vs.

1.Corporation of Chennai
rep by its Commissioner
Rippon Building
Chennai-600 003

2.Assistant Revenue Officer
Zone VIII Ward 105
Corporation of Chennai
No.36-B, 2nd Cross Stree
Pulla Avenue, Shenoy nagar
Chennai-600 030.

3. Chennai Metropolitan Water Supply
and Sewage Board
rep by its Senior Accounts Officer
Area VIII Division 105
No.227, II Avenue, near 12th main road
Anna Nagar, Chennai-600 040 ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari calling upon the records of the second respondent titled New Assessment vide No.6/16-17/48766 dated 25.06.2016 and consequential Demand Notice dated 27.06.2016 in CMC No.08/105/14862/000 of the third respondent and quash the same.

For Petitioner :Mr.S.R.Ganesh Kumar
For Respondents :Mr.T.C.Gopalakrishnan, for respondents 1 and 2
Mr.M.Jothi Kumar for R3

O R D E R

Heard learned counsel for the petitioner and the learned counsel appearing for the respondents.

2. Petitioner which is a education institution had challenged the demand issued by the third respondent board demanding enhanced water and sewerage tax at the rate of Rs.22,895/- with retrospective effect from first half year 1/2013 onwards. The petitioner's case is that before the Annual value of the building was fixed no opportunity was given by Corporation of Chennai and the notice in Form 6 was enclosed only with the impugned demand issued by the third respondent then only they came to know that the Annual value of the building was refixed at Rs.65,4152 and half yearly tax was determined at Rs.81,115/- with effect from first half year 2013-2014. Since the petitioner is an educational institution and they are exempt from property tax no demand has been made by the Corporation of Chennai. However, since the water and sewerage tax is based upon the determination of the annual value of the building and half yearly property tax, the impugned demand has been served by the respondent board. As against the revision of the annual value of the building the petitioner has filed an appeal before the Taxation Appeal Tribunal constituted under the provisions of the Chennai City Municipal Corporation Act and the same is now pending. In the meantime, the officials of third respondent board are insisting upon the petitioner to pay the entire water and sewerage tax as demanded in the notice of demand dated 26.06.2016. Under threat of disconnection petitioner institution has paid Rs.1,00,000/-

3. After hearing the counsels for the parties and perusing the materials placed on record, it is seen that the correctness of the fixation of the annual value as well as half yearly property tax is subject matter of consideration before the Taxation Appeal Tribunal in the appeal filed by the petitioner. Therefore until the appeal is decided, the petitioner which is a educational institution should not be called upon to pay the entire revised water and sewerage tax. It is seen that prior to revision the petitioner institution was paying only Rs.229/- and the same has been paid upto date. Thus considering the facts and circumstance of the case, till the appeal filed by the petitioner before the Taxation Appeal Tribunal as against the

fixation of the annual value of the building and assessment of property tax vide notice dated 25.06.2016, is decided, the petitioner institution shall pay water and sewerage tax at the rate of Rs.5,000/- per half year and this payment to be made with effect from first half of 2013 onwards and the petitioner institution is given six weeks time to pay the arrears and they shall continue to pay till the Tribunal arrives at a decision and demand of water and sewerage tax and the amount of Rs.1,00,000/- paid shall abide by the orders to be passed by the Taxation Appeal Tribunal. If the petitioner complies with the above condition the water and sewerage connection to the petitioner's institution shall not be disconnected.

4. Accordingly, the writ petition is disposed of. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner
Corporation of Chennai
Rippon Building, Chennai-600 003

2.The Assistant Revenue Officer
Zone VIII Ward 105
Corporation of Chennai
No.36-B, 2nd Cross Stree
Pulla Avenue, Shenoy nagar Chennai-600 030.

3. The Senior Accounts Officer
Chennai Metropolitan Water Supply
and Sewage Board
Area VIII Division 105
No.227, II Avenue, near 12th main road
Anna Nagar, Chennai-600 040

+1cc to Mr.R.Ganeshkumar, Advocate Sr.54946

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pvs[co]
srg 13/10/2016