IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.4681 of 2017 &
W.M.No.4918 of 2017

KCS Nadar Memorial Education Improvement Committee, Rep. by its Manager, V.Ramkumar, S/o. P.Vasudevan, Regd. Office at No.116/117, Sanjivirayan Koil Street, Old Washermenpet, Chennai - 600 021. ... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Development and Local Administration,
Secretariat, St. George Fort, Chennai - 600 009.

2.Chennai Metro Water Supply and Sewerage Board,
Rep. by its Chairman, No.1, Pumping Station Road,
Chintadripet, Chennai - 2.

3.The Commissioner of Corporation,
Corporation of Chennai,
Ribbon Building, Chennai - 3.

4.The Assistant Revenue Officer,
Corporation of Chennai,
Zone-4, Division-43, T.H.Road, Chennai - 21.

5.The Senior Accounts Officer,
Chennai Metro Water Supply and Sewerage Board,
New Area 04 Office Ramanujar Street, Chennai - 21.

6.The Presiding Officer, Taxation Appeal Tribunal,
(Greater Corporation of Chennai),
(Chennai Metropolitan Water Supply
& Drainage Board), Chennai - 600 003 ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARIFIED MANDAMUS to call for the records of order dated 19.09.2016 passed in M.W.S.T.A.No.112/2016 on the file of the sixth respondent and quash the same and consequently declare the fixation of annual value of the petitioner's property at Rs.18,86,755/- by the third respondent and the demand notice dated 21.04.2015 issued by the fifth respondent as illegal and direct the fifth respondent to receive sewerage tax at the existing rate of Rs.1,548/-.

For Petitioner : Mr.S.Pushpakaran

For Respondent : Mrs.A.Sri Jayanthi
Spl., G.P., (For R1)
Mr.Jothikumar, (For R2 & R5)
Mr.T.C.Gopalakrishnan, (For R3 & R4)

O R D E R

Heard Mr.S.Pushpakaran, learned counsel for the petitioner, Mr.K.Venkatesh, learned Government Advocate for the first respondent, Mr.Jothikumar, learned counsel for the respondents 2 and 5 and Mr.T.C.Gopalakrishnan, learned counsel for the respondents 3 and 4. With the consent on either side, the Writ Petition itself is taken up for final disposal.

2.The petitioner is an Educational Institution running a Girls Higher Secondary School which was established in the year 1964. The petitioner is aggrieved by an order passed by the Taxation Appeal Tribunal in M.W.S.T.A.No.112/2016, dated 19.09.2016. This appeal was filed by the petitioner challenging a demand notice issued by the fifth respondent herein dated 21.04.2015, demanding enhanced Water & Sewerage Tax based on the enhancement of the annual value of the building, as fixed by the Corporation of Chennai. Pursuant to the interim orders granted by this Court, even prior to filing the Writ Petition, the petitioner Institution had paid 50% of the enhanced demand towards Water & Sewerage Tax. The question would be as to whether the respondent Board would be entitled to calculate the Water & Sewerage Tax at an enhanced rates based on the fixation of the annual value of the building as done by the Corporation of Chennai by a notice in Form No.6, dated 23.12.2014. By the said notice, which is a new assessment notice, the annual value of the building was fixed at Rs.18,86,755/- and half yearly tax, after discount, was determined at Rs.2,33,960/-. The Corporation taking note of the fact that the petitioner is an educational institution exempted the same from levy of property tax. The notice in Form No.6, clearly states that the assessment of the annual value of the building is only for collecting Water & Sewerage Tax by CMWSS Board. The petitioner challenged the enhanced demand of Water & Sewerage Tax by preferring the appeal before the Tribunal and the Tribunal held that the tax having been demanded at the rate of 7% of the annual value cannot be found fault and there is nothing against law in issuing such demand. The core issue would be as to whether the fixation of the annual value of the building has attained the finality and whether the petitioner had opportunity to submit their objections.

3.Mr.T.C.Gopalakrishnan, learned standing counsel for the respondent Corporation produced the original file, from which it is seen that notice in Form No.6, dated 23.12.2014, is stated to have been received by the employee of the institution. However, no objections were given to the said notice. It is submitted by the learned standing counsel that Form 6 notice is akin to Form No.7 notice and the only difference is being Form No.6 notice is for new assessment and the objections can be made to the Commissioner of the Corporation, which will be considered.

4. Taking note of the fact that the petitioner is an educational institution running a Higher Secondary School for Girls and also conducting other classes for the poor and downtrodden, they should be granted an effective opportunity to contest the fixation of annual value of the building.

5.Without going into the controversy as to whether any of the employee of the petitioner institution has received a Form 6 notice, there will be a direction to the Assistant Revenue Officer, fourth respondent, to communicate a copy of the Form 6 notice, dated 23.12.2014, to the petitioner institution, within one week from the date of receipt of a copy of this order. On receipt of same, the petitioner is entitled to submit their objections to the third respondent, Commissioner, within a period of three weeks from then. On receipt of the objections, the third respondent shall direct an officer to inspect the school building in the presence of the Manager and based on the report of such inspection and taking into consideration, the objections that may be given by the petitioner to determine the annual value by passing a speaking order. Till the annual value is fixed by the Corporation of Chennai in terms of the above directions, the petitioner shall continue to remit the water and sewerage tax at the old rate that is the pre-revised rate. The 50% of water and sewerage tax paid by the petitioner at the enhanced rate shall be adjusted as against the future demands after the final fixation of the annual value of the building by the Corporation of Chennai.

6.With the above observations, this writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

abr/pbn

To

1.The Secretary to Government,
The State of Tamil Nadu,
Rural Development and Local Administration,
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2.The Chairman, Chennai Metro Water Supply
and Sewerage Board, No.1, Pumping Station Road,
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6.The Presiding Officer, Taxation Appeal Tribunal,
(Greater Corporation of Chennai),
(Chennai Metropolitan Water Supply
& Drainage Board), Chennai - 600 003.

+1 cc to Mr.T.C.Gopalakrishnan Advocate sr 48472
+1 cc to Mr.Pushpakaran Advocate sr 48888

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sj(co)
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