

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 06.10.2017
Coram

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

Writ Petition No.25759 of 2017
and
W.M.P.No.27182 of 2017

M/s. Innovative Marketing Agencies Pvt. Ltd.,
rep. by its Managing Director
Mr.C. R. Kulasekaram.

...Petitioner

Vs.

1. The Chennai Metro Water Supply
and Sewerage Board,
rep. by its Chairman,
TWAD House,
31, Kamarajar Salai,
Chepauk, Chennai - 600 005.
2. The Assistant Engineer/Junior Engineer,
The Chennai Metro Water Supply
and Sewerage Board,
Division-X, No.1, Bakthavatsalam Street,
West Mambalam, Chennai - 600 033.

Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the second respondent, in Ch. Ma. Tax Assessment No.10-135-02271-000, 10-135-02393, 10-135-02253 and 10-135-02306-000, dated 28.07.2016, and to quash the same.

For Petitioner : Mr.S. Krishnaa
For Respondents : Mr.M. Jothi Kumar
Standing Counsel

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O R D E R

Heard Mr.S. Krishnaa, the learned counsel appearing for the petitioner and Mr.M. Jothi Kumar, the learned Standing Counsel, who accepts notice on behalf of the respondents. With the consent on either side, the Writ Petition is taken up for final disposal, at the stage of admission itself.

2. The petitioner is stated to have purchased basement area of a building, in an Apartment Complex, known as 'Manjula Apartments', bearing Door Nos. 19 and 20, at Eswaran Koil Street, West Mambalam, Chennai. The purchase was effected by the petitioner during 2011, by way of three registered sale deeds. The petitioner is now aggrieved by the impugned distraint notice, issued by the Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB), demanding arrears of water and sewerage tax and surcharge.

3. The petitioner's contention is that, when the first demand was issued on 13.06.2016, there was no indication that the arrears of tax and surcharges are payable. All of a sudden, without furnishing any details, the impugned proceedings have been initiated.

4. When this Writ Petition came upon for admission on 05.10.2017, this Court directed the learned counsel appearing for the petitioner to serve notice on Mr. M.Jothikumar, learned Standing Counsel for the respondent/CMWSSB.

5. Today, the learned Standing Counsel along with an Official from the respondent/Board, by name, Mr.Jaganathan, (Senior Accounts Officer) are present in Court.

6. It is submitted by the aforesaid Official that, it is a case of escaped assessment, and therefore, the petitioner has been correctly assessed to water and sewerage tax and surcharge and the demand is perfectly legal. However, I find that the impugned distraint notice does not give particulars as to on what basis, the amount has been demanded. Therefore, the petitioner should be given an opportunity to contest the demand established, when it is a case of escaped assessment, that too, for a period, prior to the petitioner becoming owner of the premises, however, the petitioner shall be subjected to certain reasonable conditions to be entitled to a relief by this Court.

7. In the light of the above, there will be a direction to the petitioner to pay a sum of Rs.1,00,000/- (Rupees One Lakh only) the second respondent within a period of three weeks from the date of receipt of a copy of this order. On the amount being paid, the second respondent shall furnish the entire details as to how the arrears have been demanded, and the petitioner is given an opportunity to submit their objections to the said proposal, after which, the second respondent shall pass fresh orders of assessment in accordance with law. In the event, the petitioner does not comply with the condition imposed by this Court, the benefit of this order will not enure to the petitioner, and the respondents are at liberty to enforce the impugned distraint proceedings.

8. In the result, the Writ Petition is disposed of with the above direction. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sd/kas

To

1. The Chennai Metro Water Supply
and Sewerage Board,
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The Chennai Metro Water Supply
Division-X, No.1, Bakthavatsalam Street,
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+1 cc to M/s.V.John Vins Advocate sr 71669,

सत्यमेव जयते

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mr(co)
aa09/10/2017

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