IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:27.11.2017
Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.27861 of 2017 & WMP.No.29881 of 2017

Kings Matriculation, Higher Secondary School, rep.by its Principal S.Geetha ...Petitioner

Vs

1.The Commissioner, Corporation of Chennai.

2.The Assistant Revenue Officer, Chennai Corporation, Zone 14, Puzhuthivakkam Main Road, Ullagaram, Puzhuthivakkam, Chennai-91. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent in proceedings M.A.14/V/Thu.Na.Ka.No.R1/Special/2017 dated 17.8.2017, quash the same and direct the respondents to consider the petitioner's representation dated 23.10.2017 and not to levy property tax for the petitioner's educational institution in future.

For Petitioner : Mr.S.Sakthivel
For Respondents : Mrs.Karthika Ashok

ORDER

Heard both.

2. The petitioner is an educational institution owning two buildings where they are running matriculation higher secondary schools. It is stated that there are about 1008 students in both the schools. The petitioner is aggrieved by the notice issued by the second respondent dated 17.8.2017, by which, the second respondent demanded payment of arrears of property tax from II/2007-08 to I/2017-18, being a sum of Rs.15,730/- for the building bearing door No.300/2, Velachery Main Road, Madipakkam, Chennai-91 and the other notice, which is also dated 17.8.2017 demanding a sum of Rs.22,819/- for the period from II/2007-08 to I/2017-18 in respect of the building bearing door No.11, Kalyana Kandasamy Koil Street, Madipakkam, Chennai-91.

3. The petitioner's case is that the buildings owned by them are used for educational purposes and that they are entitled to grant of exemption under Section 101(c) of the Chennai City

Municipal Corporation Act, 1919.

4. Though such is the stand taken by the petitioner before this Court, while they are assessed to property tax by the Madipakkam Town Panchayat under the provisions of the Tamil Nadu District Municipalities Act, it appears that the petitioner has not made any claim for exemption nor filed any application for exemption before the concerned town panchayat. The town panchayat area was annexed to the jurisdiction of the Greater Chennai Corporation in the year 2012 as per the transitory provisions under the Chennai City Municipal Corporation Act, 1919. Further, the respondent Corporation is entitled to collect property tax in respect of the buildings located in the areas, which are annexed to the jurisdiction of the Corporation of Chennai. Therefore, the respondent Corporation was justified in issuing the demand notices calling upon the petitioner to pay the property tax.

5. It appears that the petitioner has not paid the property tax to the town panchayat from 2007 onwards. However, it is not known as to why steps were not taken to recover the property tax, as the petitioner did not have the benefit of any exemption under the provisions of the Tamil Nadu District Municipalities Act. Considering the fact that the petitioner is an educational institution and that there is a provision under the Chennai City Municipal Corporation Act, 1919 to consider the claim for exemption for educational institutions, this Court is of the view that the petitioner can be given liberty to file an application for exemption.

6. Though the learned counsel for the petitioner submits that the petitioner has already given a letter to the said effect on 30.8.2017, it is seen that the letter is in the form of a representation and not an application for exemption and it should be in the appropriate format and all necessary particulars should be enclosed along with the said application. However, in the interregnum, the petitioner should be put on terms.

7. Accordingly, the writ petition is disposed of by directing the petitioner to pay the amounts demanded in the impugned notices namely Rs.15,730/- (Rupees fifteen thousand seven hundred and thirty only) and Rs.22,819/- (Rupees twenty two thousand eight hundred and nineteen only) respectively, within a period of six weeks from the date of receipt of a copy of this order. If the petitioner complies with the said condition within the time stipulated, then, along with the payment receipts, the petitioner is directed to submit an application for exemption through proper channel enclosing all necessary particulars including the building plan approval, audited statement of accounts and income tax returns, etc. As and when such an application is filed, the Authority concerned shall process the application on merits after inspecting the petitioner's buildings and pass a speaking order in accordance

with law, after affording an opportunity of personal hearing to the authorized representative of the petitioner. The application for exemption shall be considered and orders shall be passed in terms of the above direction within a reasonable time preferably within a period of twelve weeks from the date of receipt of such application. No costs. Consequently, the connected WMP is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To
1.The Commissioner, Corporation of Chennai.
2.The Assistant Revenue Officer, Chennai Corporation, Zone 14, Puzhuthivakkam Main Road, Ullagaram, Puzhuthivakkam, Chennai-91.

+1cc to Mr.Karthikaa Ashok, Advocate SR.No.84123
+1cc to Mr.S.Sathivel, Advocate SR.No.84026

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sm:12.12.2017