IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.31870 of 2006 and
M.P.No.1 of 2006

St.Paul's Matriculation Higher
Secondary School, Nellikuppam,
Cuddalore District,
Rep by its Correspondent,
Mrs.Thillagavathani Israel
W/o.Mr.Israel ... Petitioner

Vs.

The Commissioner,
Nellikuppam Municipality, Nellikuppam,
Cuddalore District. ... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent herein in his proceedings No.2595 dated 18.07.2006 and quash the same.

For Petitioner : Mr.G.Anabayachozhan
For Respondent : Mr.S.V.Duraisolaimalai,
Additional Government Pleader

O R D E R

Heard Mr.G.Anabayachozhan, learned counsel for the petitioner and Mr.S.V.Duraisolaimalai, learned Additional Government Pleader appearing for the respondent.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Certiorari, to call for the records of the respondent herein in his proceedings No.2595 dated 18.07.2006 and quash the same."

3. The case of the petitioner is as follows:-

The petitioner is the Matriculation School located within the district of Cuddalore. For the purpose of running the school, a concrete building was put up by the School Management and according to the petitioner, no property tax is leviable for the school building under Rule 15(c) of the Tamil Nadu Panchayat (Assessment and Collection of Taxes) Rules 1999.

4. Inspite of the exemption granted under the rules, the respondent have issued notice for demanding property tax by Proceedings No.2595, dated 18.07.2006. In response to the notice, an explanation was offered by the school that the school building was exempted from property tax as per the aforesaid rules. However, the respondent was not inclined to accept the explanation and demanded the payment, failing which, the school was threatened with disconnection of water supply and drainage connection. Therefore, the school had to comply with the demand.

5. Since the petitioner is not liable to property tax in terms of the aforementioned Rules of the Panchayat, they had approached this Court, seeking to quash the demand vide proceedings dated 18.07.2006, of the respondent.

6. When the matter was taken up for hearing, the learned counsel for the petitioner would draw the attention of this Court on an order passed by the Hon'ble Division Bench of this Court, reported in 2008 (1) CTC 449. According to the Hon'ble Division Bench, irrespective of the character of the institution as aided or unaided, free or restricted, recognized or otherwise, the purpose for which the building is used alone qualifies the claim for exemption. The Hon'ble Division Bench, however, held that the Rule does not put any condition on the Educational Institution to avail the benefit of exemption. Hence, considering the ruling in the aforesaid decision, the learned counsel for the petitioner requests this Court to allow the writ petition as prayed for.

7. Upon notice, learned Additional Government Pleader appearing for the respondent entered appearance and made his submissions.

8. Since the issue raised in the writ petition is directly covered by the judgment of the Hon'ble Division Bench of this Court, the present writ petition necessarily has to be allowed. Therefore, by applying the ratio laid down by the Hon'ble

Division Bench, in the case of Sriram Educational Trust Vs. The President, reported in 2008 (1) CTC 449, the impugned order passed in Proceedings No.2595, dated 18.07.2006, is hereby quashed and the writ petition is allowed. There shall be a consequential direction to the respondent to re-fund any amount of property tax which was collected from the School. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gsk

To

The Commissioner,
Nellikuppam Municipality, Nellikuppam,
Cuddalore District.

W.P.No.31870 of 2006

KJI(CO)
TR(13/12/2017)