IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2017

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13767 of 2004
And
W.P.M.P.No.16173 of 2004

Shree Enterprises
Rep. by its Proprietor
Mr.Pavan Sharma ... Petitioner

Vs.

1.The Revenue Officer,
Corporation of Chennai,
Chennai – 600 003.

2.The Chairman,
Chennai Port Trust,
Chennai – 600 001. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from colleting the increased rate of Timber Tax of Rs.50 from Rs.5 per CBM/TON for the timber log goods of the petitioner's company from the Chennai Harbour to the Godown at Gummidipundi.

For Petitioner : No Appearance
For Respondents : Mr.R.Karthikeyan for R2

O R D E R

There is no representation for the petitioner. Heard the learned counsel appearing for the second respondent.

2.The petitioner has filed this writ petition seeking issuance of Writ of Mandamus forbearing the respondents from collecting the increased rate of Timber Tax of Rs.50 from Rs.5 per CBM/TON for the timber log goods of the petitioner's company from the Chennai Harbour to the Godown at Gummidipundi.

3.The issue in this writ petition has been dealt with by this Court on earlier occasion and it has also been followed in other writ petitions, i.e., in the order dated 27.03.2017 made in W.P.No.15160 of 2004, wherein, the relevant portions reads as follows:

> *"2. The petitioner has sought for a Writ of Mandamus, forbearing the respondents from collecting the increased rate of Timber Tax of Rs.50 from Rs.5/- per CBM/Metric Ton for the timber log goods of his company from Chennai Harbour to the Godown situated at No.190, G.N.T.Road, Puzhal, Madhavaram Panchayat, Chennai-600 066.*
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> *3. On this day, when the matter came up for hearing, Mr.R.Arunmozhi, learned counsel appearing for the corporation, submitted that though the Corporation of Chennai has passed a Resolution No.308/03 dated 20.06.2003, enhancing timber tax from Rs.5/- to Rs.50/-and*

when permission was sought for, the Government by letter dated 21.05.2005, have declined permission to enhance, on the ground that rules have to be amended. Subsequently, another resolution No.328/2005 dated 29.08.2005 has been passed. Thereafter, a decision has been taken to collect timber tax at Rs.5/-for every tonne. Proceedings dated 05.09.2005 has also been produced. Collection of timber tax is provided under Section 129 of the Chennai City Municipal Corporation Act, 1919, which is extracted hereunder :-

[129. Tax on timber.-- (1) If the council by a resolution determines that a tax shall be levied on timber brought into the city, such tax shall be levied at such rates, exceeding five rupees per ton, and in such manner as may be determined by the council:

Provided that no tax shall be levied on any timber brought into the city in the course of transit to anyplace outside the city and directly removed out of the city by rail, road or water.

(2) No timber shall, except in the case referred to in the proviso to sub-section (1). be brought into the city unless the tax due thereon has been paid

(3) The tax shall be levied on timber kept within the city for sale if the commissioner has reason to believe that the tax, if any, due thereon has not been paid:

Provided that the tax shall not be levied if the person keeping the timber for sale produces satisfactory proof of the previous payment of the tax thereon.
(4) The commissioner may call for the accounts of any person keeping timber for sale for the purpose of levying the tax under sub-section

(3).

(5) If the commissioner is satisfied that any person has willfully evaded the payment of tax leviable under this section, the commissioner may direct that such person shall, in addition to such tax, pay by way of penalty, a sum not exceeding the amount of such tax. Such penalty shall be recoverable in the same manner as the tax.

(6) The council may make by-laws for the seizure and sale of timber in respect of which the tax due is not aid and otherwise for carrying out all or any of the provisions relating to the levy of tax on timber].

4. The copy of the circular memorandum dated 05.09.2005 produced before this Court shall be treated as part of record.

5. In view of the above, there is no need to issue any Mandamus as prayed for. Accordingly, the writ petition is dismissed. No costs.

4. In view of the order cited supra, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

14.07.2017

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

To

1.The Revenue Officer,
Corporation of Chennai,
Chennai – 600 003.

2.The Chairman,
Chennai Port Trust,
Chennai – 600 001.

M.DHANDAPANI,J.
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