

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.26236 of 2003
and
W.P.M.P.No.32119 of 2003

1. Chennai Timber and Plywood Merchants Association,
Rep. by its Secretary,
No.247, Raja Muthiah Salai,
(Sydenhams Road)
Appa Rao Garden,
Chennai-600 112.
2. M/s.Velmurugan Timber Industries,
Rep. by its Proprietor, S.Paneer Selvam,
No.11/1-B, Red Hills Road,
Kathirvedu, Chennai. ... Petitioners

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary,
Municipal Administration &
Water Supply Department,
Fort. St. George, Chennai-9.
2. The Corporation of Chennai
Rep. by its Commissioner,
Ripon Building, Chennai-3.
3. The Revenue Officer,
Corporation of Chennai
Ripon Buildings,
Chennai-3. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to forbear the respondents from collecting or demanding enhancement of Timber tax from the second petitioner and the similarly situated members of the first petitioner-association as the proposed enhancement of tax under Section 129 of the Chennai City Municipal Corporation Act, 1919 is not within the Legislative competence.

For Petitioner : Ms. Tamilselvi for M/s.K.S.Natarajan

For Respondents: Mr.Akhil Akbar Ali, Govt. Advocate for R-1
Mr.S.Saravanan for RR-2 & 3

ORDER

The petitioners have come forward with above writ petition praying to issue a Writ of Mandamus to forbear the respondents from collecting or demanding enhancement of Timber tax from the second petitioner and the similarly situated members of the first petitioner-association, as the proposed enhancement of tax under Section 129 of the Chennai City Municipal Corporation Act, 1919 is not with the Legislative competence.

2. It is submitted by the learned counsel for the respondents 2 and 3/Corporation of Chennai that there is a Circular issued by the Corporation of Chennai on 06.09.2005, wherein a decision was taken that the Timber tax could not be increased. The respondents 2 and 3/Corporation of Chennai have filed counter affidavit, and the relevant paragraphs 9 to 11 of the same are extracted hereunder:

"9. I submit that in consonance with the directions of the State Government, the Council in its Resolution No.328/2005, dated 29.08.2005 had resolved to collect the tax on timber only at the rate of Rs.5/- per ton.

10. I submit that in pursuance of the Council Resolution, suitable instructions have been given by this respondent Corporation to collect the tax on timber only at the rate of Rs.5/- per ton.

11. I further submit that the tax on timber is being collected at the rate of Rs.5/- per ton in accordance with Sec.129 of Chennai City Municipal Corporation Act, 1919. No revision of the tax on timber was made so far by this respondent Corporation."

3. In the light of the above stand taken by the respondents 2 and 3 in the counter affidavit, more particularly in the light of the Resolution dated 29.08.2005 of the Corporation, wherein, it was resolved to collect the Timber tax only at the rate of Rs.5/- per ton and that the respondents have not proceeded further in the light of the above Resolution mentioned supra, the Writ Petition is disposed of accordingly. No costs. W.P.M.P. is closed.

CS

Sd/-

Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

To

1. The Secretary,
Municipal Administration &
Water Supply Department,
Fort. St. George, Chennai-9.
2. The Corporation of Chennai
Rep. by its Commissioner,
Ripon Building, Chennai-3.
3. The Revenue Officer,
Corporation of Chennai
Ripon Buildings,
Chennai-3.

+1CC to M/S.S.SARAVANAN Advocate SR.NO.69324

+1CC to Govt Pleader SR.NO.70788

+1CC to M/S.K.S.NATARAJAN Advocate SR.NO.69335

W.P.No.26236 of 2003

MK:12/10/2017

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