BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DELIVERED ON : 22.11.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.14508 of 2016 and W.M.P(MD)No.10767 of 2016
W.P(MD)No.14509 of 2016 and W.M.P(MD)No.10768 of 2016
W.P(MD)No.14510 of 2016 and W.M.P(MD)No.10769 of 2016
W.P(MD)No.14517 of 2016 and W.M.P(MD)No.10770 of 2016
AND
W.P(MD)No.14518 of 2016 and W.M.P(MD)No.10771 of 2016

W.P(MD)No.14508 of 2016:

Velammal Educational Trust,
represented by its
Chairman,
M.V.Muthuramalingam.
Velammal Village,
Tuticorin Ring Road,
Near Chinthamani Tollgate,
Chinthamani Main Road,
Anuppanadi,
Madurai - 625 009. ... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its
Secretary,
Municipal Administration and Water Supply
Department,
Secretariat,
Chennai - 600 009.

2.The Chairman and Managing Director,
Tamil Nadu Water Supply and Drainage Board,
Chepauk,
Chennai - 600 005.

3.The District Collector,
Office of the District Collector,
Collectorate,
Madurai District.

4.The Commissioner,
Madurai Corporation,
Madurai - 625 002. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the fourth respondent, dated 01.08.2016 and quash the same as illegal and consequently, forbear the fourth respondent from demanding or collecting any property tax for the Medical College and Hospital building situated in S.No.80/1 at Chinna Anuppanadi, Madurai District.

For Petitioner : Mr.Niranjan S.Kumar

For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate for R.1 & R.3

Mr.K.Muthuramalingam for R.2

Mr.B.Pugalendhi,
Additional Advocate General
assisted by
Mr.N.Shanmugaselvam for R.4

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W.P(MD)No.14509 of 2016:

Velammal Educational Trust,
represented by its
Chairman,
M.V.Muthuramalingam.
Velammal Village, Tuticorin Ring Road,
Near Chinthamani Tollgate,
Chinthamani Main Road,
Anuppanadi,
Madurai - 625 009. ... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its
Secretary,
Municipal Administration and Water Supply
Department,
Secretariat,
Chennai - 600 009.

2.The Chairman and Managing Director,
Tamil Nadu Water Supply and Drainage Board,
Chepauk,
Chennai - 600 005.

3.The District Collector,
Office of the District Collector,
Collectorate, Madurai District.

4.The Commissioner,
Madurai Corporation,
Madurai - 625 002. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the fourth respondent, dated 01.08.2016 and quash the same as illegal and consequently, forbear the fourth respondent from demanding or collecting any property tax for the Medical College and Hospital building situated in S.No.52/3 at Chinna Anuppanadi, Madurai District.

For Petitioner : Mr.Niranjan S.Kumar

For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate for R.1 & R.3

Mr.K.Muthuramalingam for R.2

Mr.B.Pugalendhi,
Additional Advocate General
assisted by
Mr.N.Shanmugaselvam for R.4

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W.P(MD)No.14510 of 2016:

Velammal Educational Trust,
represented by its
Chairman,
M.V.Muthuramalingam.
Velammal Village,
Tuticorin Ring Road,
Near Chinthamani Tollgate,
Chinthamani Main Road,
Anuppanadi,
Madurai - 625 009. ... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its
Secretary,
Municipal Administration and Water Supply
Department,
Secretariat,
Chennai - 600 009.

2.The Chairman and Managing Director,
Tamil Nadu Water Supply and Drainage Board,
Chepauk,
Chennai - 600 005.

3.The District Collector,
Office of the District Collector,
Collectorate, Madurai District.

4.The Commissioner,
Madurai Corporation,
Madurai - 625 002. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the fourth respondent, dated 01.08.2016 and quash the same as illegal and consequently, forbear the fourth respondent from demanding or collecting any property tax for the Medical College and Hospital building situated in S.No.73/2 at Chinna Anuppanadi, Madurai District.

For Petitioner : Mr.Niranjan S.Kumar

For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate for R.1 & R.3

Mr.K.Muthuramalingam for R.2

Mr.B.Pugalendhi,
Additional Advocate General
assisted by
Mr.N.Shanmugaselvam for R.4

* * * * *

<u>W.P(MD)No.14517 of 2016:</u>

Dr.S.Gurushankar,
President,
S.R.Trust - running and administering
Meenakshi Mission Hospital and Research Centre,
Lake Area,
Melur Road,
Madurai. ... Petitioner

Vs.

1.The Tamil Nadu Government,
represented by
The Secretary,
Local Bodies and Municipal Administrations,
Secretariat,
St. George Fort,
Chennai.

2.The Commissioner,
Madurai Corporation,
Anna Maligai, Madurai.

3.The Assistant Commissioner,
Zone - II, Madurai Corporation,
Madurai. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records in No.Z2A3/04380/15, dated 02.07.2015 on the file of the third respondent and quash the same as illegal, ultra vires and unconstitutional and forbear the respondents 2 and 3 from in any manner assessing and collecting property tax in respect of the hospital building of the petitioner Trust situated in S.Nos.161/1, 164/5, 164/5B2, 164/5B1, 165/7, 164/1, 164/3, 164/7, 164/2, 165/4B, 165/8B (Ward No.28, Zone-II of Madurai Corporation), Lake Area, Melur Road, Madurai, wherein Meenakshi Mission Hospital and Research Centre is situated.

For Petitioner : Mr.S.Ramesh

For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate for R.1

Mr.B.Pugalendhi,
Additional Advocate General
assisted by
Mr.R.Murali for R.2 & R.3

* * * * *

W.P(MD)No.14518 of 2016:

Dr.S.Gurushankar,
President,
S.R.Trust - running and administering
Meenakshi Mission Hospital and Research Centre,
Lake Area,
Melur Road,
Madurai. ... Petitioner

Vs.

1.The Tamil Nadu Government,
represented by
The Secretary,
Local Bodies and Municipal Administrations,
Secretariat,
St. George Fort,
Chennai.

2.The Commissioner,
Madurai Corporation,
Anna Maligai, Madurai.

3.The Assistant Commissioner,
Zone - II, Madurai Corporation,
Madurai. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records in No.Z2A3/3850/16, dated 03.06.2016 on the file of the third respondent and quash the same as illegal, ultra vires and unconstitutional and forbear the respondents 2 and 3 from in any manner assessing and collecting property tax in respect of the hospital building of the petitioner Trust situated in S.Nos.161/1, 164/5, 164/5B2, 164/5B1, 165/7, 164/1, 164/3, 164/7, 164/2, 165/4B, 165/8B (Ward No.28, Zone-II of Madurai Corporation), Lake Area, Melur Road, Madurai, wherein Meenakshi Mission Hospital and Research Centre is situated.

For Petitioner : Mr.S.Ramesh

For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate for R.1

Mr.B.Pugalendhi,
Additional Advocate General
assisted by
Mr.R.Murali for R.2 & R.3

* * * * *

COMMON ORDER

By consent, all the writ petitions are taken up for final disposal. Since the issue involved in all these writ petitions, is similar, they are disposed of by this common order.

2. Facts-in-nutshell leading to the filing of W.P(MD)Nos.14508 to 14510 of 2016, are as follows:

2.1. According to the petitioner, Velammal Educational Trust was established for achieving various noble objectives on 22.01.1986. It was registered as Document No.85/1986 on the file of the Joint Sub Registrar No.III, Chennai.

2.2. The petitioner is the Chairman of Velammal Educational Trust, which runs Velammal Hospital and Medical College in 140 acres. According to the petitioner, 10 lakhs patients from rural areas as well as 3 lakhs patients from urban areas were given treatment for very lower price in the past three years.

2.3. In the petitioner's hospital, the patients are being treated with modern equipments as well as rare medicines are being supplied to them with discounts upto 30%. World class treatment is being given to the patients who are below the poverty line.

2.4. The petitioner further stated that Velammal Educational Trust and Velammal Hospital and Medical College have been established with a motive to help the poor and the needy students and patients in the society.

2.5. The fourth respondent has assigned the petitioner Trust the property tax assessment No.395496.

2.6. The petitioner made a representation dated 05.07.2016 to the fourth respondent mentioning about the exemption granted to the petitioner Trust and the Medical College under the law.

2.7. Though the petitioner Trust and the Medical College are exempted from levying property tax, the fourth respondent issued the impugned demand notice for payment of property tax for the Assessment No.395495 and also directed to pay a sum of Rs.29,977/- (Rupees Twenty Nine Thousand Nine Hundred and Seventy Seven only) in respect of R.S.No.80/1 [W.P(MD)No.14508 of 2016]; a sum of Rs.2,75,982/- (Rupees Two Lakhs Seventy Five Thousand Nine Hundred and Eighty Two only) in respect of R.S.No.52/3 [W.P(MD)No.14509 of 2016] and a sum of Rs.25,81,130/- (Rupees Twenty Five Lakhs Eighty One Thousand One Hundred and Thirty only) [W.P(MD)No.14510 of 2016] with effect from 01.10.2013.

2.8. Thereafter, the fourth respondent passed the impugned order dated 01.08.2016, directing the petitioner to pay the aforesaid amount towards property tax within thirty days with a default clause.

2.9. Challenging the same, W.P(MD)Nos.14508 to 14510 of 2016 have been filed.

3. Brief facts necessary for the disposal of W.P(MD)Nos.14517 and 14518 of 2016, are as follows:

3.1. According to the petitioner, S.R.Trust was found by Dr.N.Sethuraman on 09.05.1985 and it was duly registered under the Indian Trust Act.

3.2. It is claimed by the petitioner that the said Trust is a non-profit as well as public charitable organisation and in terms of the trust deed, Meenakshi Mission Hospital and Research Centre has been established.

3.3. The founder of the Trust has been awarded with Dr.B.C.Roy National Award for Medical Social Services. Many awards of appreciation by various District Collectors have been given to the Trust.

3.4. The Income Tax Department, Government of India, issued a certificate on 29.01.1987 approving S.R.Trust as a Public Charitable Trust under Section 12-AA of the Income Tax Act, 1961.

3.5. The hospital buildings were constructed in accordance with the sanctioned plan and the approval was granted by Uthangudi Panchayat and hence, the stand taken by the respondent Corporation that the buildings put up by the petitioner are unauthorised ones, is baseless.

3.6. The petitioner made a representation dated 11.05.2015 to the second respondent seeking exemption from paying property tax in respect of the hospital buildings as per Section 122(e) of Madurai City Municipal Corporation Act, 1971.

3.7. However, the claim of the petitioner was rejected by virtue of the impugned order dated 02.07.2015, however, without affording due opportunity of hearing to the petitioner to adduce evidence thereof.

3.8. The claim of the petitioner for exemption of property tax has not even been placed before the Corporation Council for its approval.

3.9. The third respondent is not a competent authority to consider the claim of exemption regarding the property tax and thus, the impugned order is vitiated in the eye of law.

3.10. Therefore, W.P(MD)Nos.14517 and 14518 of 2016 have been filed.

4. The crux of the arguments advanced by Mr.Niranjan S.Kumar, learned Counsel for the petitioner in W.P(MD)Nos.14508 to 14510 of 2016 and Mr.S.Ramesh, learned Counsel for the petitioner in W.P(MD) No.14517 and 14518 of 2016, could briefly be stated thus:

4.1. It is the prime contention of the petitioners that the impugned demand notices came to be issued without giving any notice nor any opportunity of personal hearing to the petitioners and further, the impugned notices were issued in violation of statutory principles, as the statute grants exemption from levying property tax to the hospitals and the Charitable Institutions;

4.2. The act of respondents in levying property tax to the petitioners - hospitals, is illegal and without any basis and thus, it would exhibit non-application of mind on the part of the respondents.

4.3. Reliance has also been placed upon Section 122 (e) of the Act, which grants statutory exemption to the charitable hospitals and dispensaries from levying tax and it reads as under:

"122. General exemption from property tax.-

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(e) Charitable hospitals and dispensaries, but not including residential quarters attached thereto."

4.4. The main thrust of the argument put forth by the petitioner is that the impugned notices were issued without any valid resolution passed by the Corporation Council in that regard. No property tax was levied all these years, until the impugned Demand Notice issued by the respondents.

4.5. The act of the respondent Corporation in issuing demand notice for collection of property tax from the petitioners - hospitals, would be without any jurisdiction.

4.6. Moreover, the payments made by the patients to the hospitals by way of hospital charges cannot be equated to 'rent' as contemplated under the provisions of the said Act and the denial of benefit of exemption to the petitioners - hospitals on that score cannot be sustained. In support of the same, reliance has also been placed on the decision of the Division Bench of this Court in *S.N.R.Sons Charitable Trust, Coimbatore v. The Commissioner, Coimbatore City Municipal Corporation, Coimbatore* reported in *1993 Writ L.R. 769*.

4.7. Further, the petitioners - Trusts are entitled to exemption under Section 86(e) of the Tamil Nadu District Municipalities Act, 1920, wherein it is clearly stated that the charitable hospitals and dispensaries, but not including residential quarters attached thereto, shall be exempted from the property tax. However, the respondents issued the impugned demand notices without any application of mind.

4.8. Thus, both the learned Counsel for the petitioners - hospitals pray for allowing these writ petitions.

5. In support of his contentions, Mr.Niranjan S.Kumar, learned Counsel for the petitioner in W.P(MD)Nos.14508 to 14510 of 2016, relied on the following decisions:

(i) *PSG & Sons Charities v. City Municipal Corporation, Coimbatore* reported in *1997 (I) CTC 331.*

(ii) *Society of Jesus, Mary and Joseph v. Bangalore Mahanagar Palika* reported in *2002 (0) AIR (Kar) 31.*

(iii) *Father Thomas Panjikkaran v. Chalakudy Municipality* reported in *2004 (0) AIR (Ker) 160.*

(iv) *Kasturba Health Society v. State of Maharashtra* reported in *2004 (0) Supreme (Mah) 1488.*

(v) *St. Mary of Leuca English Medium School v. Deputy Director of Panchayat* reported in *2006 (3) KLT 760.*

(vi) *Govel Trust running Aravind Eye Hospital at Avanashi Road, Coimbatore, rep. by its Secretary v. The Government of Tamil Nadu* reported in *2009 (0) Supreme (Mad) 300.*

(vii) *Coimbatore Masonic Charity Trust v. Corporation of Coimbatore* reported in *(2010) 8 MLJ 643.*

(viii) *Unity Hospital (P) Ltd. v. State of Kerala and others* reported in *2011 (1) ILR (Ker.) 19.*

(ix) *Gokula Education Foundation (Medical) and another v. Bruhath Bangalore Mahanagara Palike and others* reported in *2012 (0) Supreme (Kar) 405.*

6. Whereas Mr.S.Ramesh, learned Counsel for the petitioner in W.P(MD)Nos.14517 and 14518 of 2016, placed reliance on the following decisions:

(i) *Dadi Jagannadham v. Jammulu Ramulu and others* reported in *(2001) 7 Supreme Court Cases 71.*

` (ii) *Nasiruddin and others v. Sita Ram Agarwal* reported in *(2003) 2 Supreme Court Cases 577.*

(iii) *Vemareddy Kumaraswamy Reddy v. State of A.P* reported in *(2006) 2 Supreme Court Cases 670.*

(iv) *The Special Officer and Commissioner, Tiruchirappalli Corporation, Tiruchirappalli v. Hindu Mission Hospital* reported in *2008-2-L.W.159.*

(v) *Mohd. Shahabuddin v. State of Bihar* reported in *(2010) 4 Supreme Court Cases 653.*

(vi) *The Administrator v. Government of Kerala* [W.P(C)No.6085 of 2007 (Y), decided on 20.07.2011].

(vii) *Bonanzo Engg. & Chemical (P) Ltd., v. CCE* reported in *(2012) 4 Supreme Court Cases 771.*

7. Per contra, Mr.B.Pugalendhi, learned Additional Advocate General assisted by Mr.N.Shanmugaselvam as well as Mr.R.Murali, learned Standing Counsel appearing for the respondent - Corporation made the following submissions:

7.1. Velammal Hospital and Medical College was established in Velammal Village to the extent of 140 acres and the petitioner made a representation dated 05.07.2016 to the respondent - Corporation seeking exemption from payment of property tax, however, the same was rejected.

7.2. Meenakshi Mission Hospital and Research Centre, Madurai, is concerned, the said hospital is functioning in a huge building at Lake Area, Madurai and prior to 2011, the said hospital came under Uthangudi Village Panchayat and the said building was assessed for property tax and the petitioner also paid the same without any objection to the Village Panchayat.

7.3. Meanwhile, the said Village Panchayat was merged with Madurai Corporation. Thereafter only, the petitioner made a representation dated 02.05.2015 to the respondent Corporation seeking exemption from payment of property tax under Section 122(e) of Madurai City Municipal Corporation Act, 1971.

7.4. However, the said request of the petitioner was rejected by the third respondent vide proceedings dated 02.07.2015 and challenging the same, the present writ petitions have been filed.

7.5. The petitioners - hospitals are not running purely on charitable purposes and admittedly, the charges are collected from the patients.

7.6. The exemption granted under Section 80-G of the Income Tax Act, would not, by itself, entitle the petitioner - hospital to seek an exemption from the payment of property tax.

7.7. Further, no evidence was produced to the effect that the petitioners - hospitals are collecting only a nominal charge from the poor, distressed, disabled and needy persons, based on their income.

7.8. No service was rendered by the petitioners - hospitals for free of charge to whomsoever.

7.9. Rent was collected from the patients who were admitted and fees were also received for rendering service in the hospitals.

7.10. The petitioners - hospitals had also rented out a portion of the premises to run canteen and collecting parking fees for the vehicles parked in the premises and therefore, the petitioners - hospitals are not entitled to the exemption under Section 122(e) of the Act automatically.

7.11. Hence, the petitioners - hospitals cannot claim the benefit under Section 122(e) of Madurai City Municipal Corporation Act, 1971.

7.12. The petitioners - hospitals are provided with amenities, such as, road and other facilities, but they refused to pay the property tax to the respondent - Corporation.

7.13 Thus, the learned Additional Advocate General appearing for the respondent - Corporation prayed for the dismissal of these writ petitions.

8. In support of his contentions, he placed reliance on the following decisions:

(i) *Indian Chamber of Commerce v. C.I.T* reported in *(1976) 1 Supreme Court Cases 324.*

(ii) *Grasim Industries Ltd. v. State of M.P* reported in *(1999) 8 Supreme Court Cases 547.*

(iii) *Special Officer and Commissioner, Tiruchirappalli v. Hindu Mission Hospital* reported in *(2008) 4 MLJ 816.*

(iv) *Commissioner of Central Excise v. Hari Chand Shri Gopal and others* reported in *(2011) 1 Supreme Court Cases 236.*

(v) *Oil and Natural Gast Corporation Limited v. Commissioner of Income Tax and another* reported in *(2015) 10 Supreme Court Cases 621.*

9. I have considered the submissions made by the learned Counsel for the parties and perused the materials available on record.

10. The core issue involved in all these writ petitions is, whether the petitioners-hospitals are eligible to be exempted from paying the property taxes as demanded by the respondent - Corporation, or not?

11. Before analysing the issue that has arisen for consideration, it is relevant to refer to the relevant provisions of Madurai City Municipal Corporation Act, 1971 as under:

Section 120:

"120. Description of property tax.- (1) If the council by resolution determines that a property tax for general purposes shall be levied, such tax shall be levied on all buildings and lands within the city save those exempted by or under this Act or any other law."

Section 122(e):

"122. General exemption from property tax.- The following buildings and lands shall be exempt from the property tax:-

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(e) charitable hospitals and dispensaries, but not including residential quarters attached thereto;

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***** *****

Provided that nothing contained in clauses (a), (c) and (e) shall be deemed to exempt from property tax and building or land for which rent is payable by the person or persons using the same for the purposes referred to in the said clauses."

12. This Court, is, therefore, *prima facie,* of the view that the impugned demand notices were issued by the respondent - Corporation in all these writ petitions claiming property tax from the petitioners - hospitals for various assessment years, but, however, the petitioners - hospitals contended that they, being hospitals, are purely exempted from paying property tax as per Section 122(e) of Madurai City Municipal Corporation Act, 1971.

13. It is the claim of the petitioners - hospitals that they receive only nominal amount to meet the heavy cost and expenditure incurred while treating the patients. According to them, cost of the expenditure is partially received from the patients. Hence, they claim exemption under Section 122(e) of Madurai City Municipal Corporation Act, 1971. However, the respondent - Corporation raised a demand for the respective amounts in respect of the half-years concerned. Thus, the petitioners - hospitals are before this Court.

14. The respondent - Corporation resisted the writ petitions disputing the character and status of the petitioners - hospitals as they are collecting exorbitant rent from the patients who were admitted and fees were also received for rendering service in the hospital and no service was rendered free of charge to whomsoever. The plea that they were collecting only a nominal charge from the poor, distressed, disabled and needy persons, based on their income was not true and no evidence was produced to that effect. Further, the exemption granted under Section 80-G of the Income Tax Act, would not,by itself, entitle the petitioners - hospitals to seek an exemption from the payment of property tax.

15. In *S.N.R. Sons Charitable Trust, Coimbatore v. Commissioner, Coimbatore City Municipal Corporation, Coimbatore* reported in *(1993) 10 WLR 769*, the scope of exemption from the payment of property tax with reference to the building owned as buildings and lands of charitable hospitals and dispensaries not including the residential quarters attached thereto mentioned under Section 123(e) of Tiruchirappalli City Municipal Corporation Act, came up for consideration before a Division Bench of this Court and it is held that the amount paid by the patients who use the hospital as well as the range of services provided by it cannot be regarded as rent paid by them. In the narrow sense, it is only intended under the provisions referred to therein. Therefore, the benefit of exemption to the respondent hospital therein conferred under Section 123(e) of the said Act cannot be denied on that score alone.

16. In the aforesaid decision, the Division Bench placed reliance on the decision of the Honourable Supreme Court in *State of Punjab v. British India Corporation Ltd.*, reported in *AIR 1963 SC 1459* and the decision of the Delhi High Court in *New Delhi Holy Family Hospital Society v. Delhi Municipality* reported in *AIR 1984 Delhi 84*, for the proposition that the amount received towards the service rendered by the hospital, viz., free accommodation, bed and linen, nursing and para medical services and charges for electricity while the patient remain in the hospital, can no means be regarded as rent within the meaning of Section 123(e) of the said Act to disentitle the respondent hospital therein from claiming the benefit of exemption. But the benefit provided under Section 123(e) of the said Act, as read in the statute book, is subject to further qualification prescribed by the proviso to Section 123(e) of the said Act.

17. Accordingly, the proviso that nothing in Section 123(a),(c) and (e) of the said Act shall be deemed to exempt from property tax any building or land for which rent is payable by a person or persons using the same for the purpose of Section referred to in the said clause, would make it clear that the exemption granted in the main provision, viz., 123(e) of the said Act is not automatic.

18. Thus, as observed by the Division Bench, the property tax leviable on annual value is based on the gross annual rent on the basis of letting from month to month or year to year and therefore, the exemption is thus made available with reference to the levy of property tax on the basis of annual rent, either from month to

month or year to year. But, even though the Division Bench held that the receipt of payment made by the patients, would not, by itself, amount to rent, there is no ruling in the said decision whether the exemption is automatic or not.

19. To make the proviso effective and operative, on raising of the demand, if the respondent Hospital is entitled to any exemption, by virtue of Section 123(e) of the said Act, the only mechanism available for them is to approach the respondent - Corporation, satisfy them that they are entitled to exemption under section 123 (e) of the said Act, as the proviso made it very clear that such exemption is not automatic because nothing contained in clause (a) (c) and (e) shall be deemed to exempt from payment of property tax.

20. Therefore, when the respondent - Corporation relies upon not only the receipt of amount from the patients, but also the rent received towards Canteen and fees collected for parking the vehicles and other sources, whether those receipts would attract rent or not, has to be decided only by the assessing authority, at the instance of objection or revision by the owner of the building, even if they are charitable hospital and dispensaries. Without that process being resorted to, it may not be proper to quash the demand notice itself, assuming the receipt of the amount, by itself, would not amount to a rent.

21. In *Municipal Corporation of Coimbatore v. Govindasamy Naidu Hospital* reported in *(2004) 2 CTC 155*, where evidence established that many patients volunteered and paid sums of money in excess of fee charges by way of donation, a Division Bench of this Court has held that exemption granted under Income Tax Act, Customs Act could not be applied automatically in determining status under Section 86 (e) of the Tamil Nadu District Municipalities Act, 1920, when the hospital did not establish that it was a charitable hospital and the profit generated by it was used for charitable purpose.

22. In the considered opinion of this Court, reliance placed on the decision in *S.N.R. Sons Charitable Trust, Coimbatore v. The Commissioner, Coimbatore City Municipal Corporation, Coimbatore* reported in *1993 10 WLR 769*, is helpful only to the limited extent to decide that the receipt of payment by the petitioners - hospitals from the patients would not, by itself, amount to rent and the same cannot be a ground to quash the impugned demand.

23. In *Coimbatore Masonic Charity Trust rep. by its Trustee and Secretary, Coimbatore v. The Commissioner, Coimbatore Corporation, Coimbatore* [W.A.Nos.1832 to 1834 of 2000 dated 1.12.2000], where a charitable hospital claimed exemption from the payment of property tax demanded by Coimbatore Corporation under Section 123(e) of the Act, the Division Bench directed the assessee to pay a portion of the property tax demanded and directed the Corporation to consider and pass orders on the representation of the assessee claiming exemption, based on the materials furnished by the assessee and in accordance with law.

24. In these circumstances, this Court holds that the benefit conferred under Section 122(e) of Madurai City Municipal Corporation Act, 1971, is not automatic, in view of the proviso to Section 122 (e) of the Act and the only course available for the petitioners - hospitals is that on receipt of the demand notice, they are at liberty to either make an objection or file a revision enclosing the material to prove that they are entitled to exemption.

25. In the result,

(i) W.P(MD)Nos.14508 to 14510, 14517 and 14518 of 2016 are disposed of;

(ii) The petitioners – hospitals are at liberty to make a representation to the respondent - Corporation objecting to the demand of property tax, enclosing all the relevant materials, within a period of six weeks from the date of receipt of a copy of this order;

(iii) On receipt of the same, the respondent - Corporation shall pass appropriate orders, considering the materials furnished by the petitioners – hospitals after conducting proper inspection of the premises, for which exemption is sought for and taking note of the copies of receipts to be furnished by them as well as the daily room rent separately collected by the petitioners - hospitals from the patients, which may vary depending upon the nature and period and in accordance with law; and

(iv) Considering the huge arrears by the petitioners – hospitals, the petitioners – hospitals are directed to make a payment of 1/3rd of the arrears of the impugned demand, which shall be, of course, subject to the final order to be passed by the respondent - Corporation in this regard.

(v) There shall be no order as to costs; and

(vi) Consequently, all the connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary, State of Tamil Nadu,
Municipal Administration and Water Supply Department,
Secretariat, Chennai - 600 009.

2.The Chairman and Managing Director,
Tamil Nadu Water Supply and Drainage Board,
Chepauk, Chennai - 600 005.

3.The District Collector,
Office of the District Collector, Collectorate,
Madurai District.

4.The Commissioner, Madurai Corporation, Madurai - 625 002.

5.The Secretary,
Government of Tamil Nadu,
Local Bodies and Municipal Administrations, Secretariat,
St. George Fort, Chennai.

6.The Assistant Commissioner, Zone - II,
Madurai Corporation, Madurai.

+3 cc to Mr.Niranjan S.Kumar, Advocate, SR.Nos.88791,88792 and 88790

+3 ccs to Mr.K.Muthuramalingam, Advocate, SR.Nos.89169,89171 and 89170

+1 cc to Mr.R.Murali, Advocate, SR.No.89028

+2 ccs to Mr.V.Raghavachari, Advocate, SR.No. 88810

rsb

RL/16C/15P/JC/SAR4/5/12/2017

COMMON ORDER MADE IN
W.P(MD)No.14508 of 2016
and W.M.P(MD)No.10767 of 2016
W.P(MD)No.14509 of 2016
and W.M.P(MD)No.10768 of 2016
W.P(MD)No.14510 of 2016
and W.M.P(MD)No.10769 of 2016
W.P(MD)No.14517 of 2016
and W.M.P(MD)No.10770 of 2016
AND
W.P(MD)No.14518 of 2016
and W.M.P(MD)No.10771 of 2016

22.11.2017