IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.10.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 17521 of 2008
M.P.Nos.1 & 2 of 2008

M/s.Raptakos Bret & Co.Ltd.,
Rep.by its Manager - Personnel
Mr.C.K.Murali Krishnan,
No.142 (66), Velacherry Road,
Chennai - 600 042. ..Petitioner

vs

1. Chennai Metropolitan Water Supply & Sewerage Board, rep.by its Managing Director, No.1, Pumping Station Road, Chinthadripet, Chennai - 2.

2. The Asst. Engineer/Junior Engineer, Zone -9, Chennai Metropolitan Water Supply & Sewerage Board, Chinthadripet, Chennai - 2.

3. The Commissioner, Corporation of Chennai, Chennai - 3. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for records of the second respondent culminating in his impugned proceedings No.7503 dated 11.06.2008, quash the same and direct the first and second respondents to forthwith restore water and sewerage connection to the petitioner's premises situated at No.142 (66), Velacherry Road, Chennai - 600 042.

For Petitioner : Mr.Arun Anbumani

For Respondents : Mr.N.Ramesh for R1 & R2
Ms.Karthikaa Ashok for R3

O R D E R

The relief sought for in this writ petition is to call for the records of the second respondent culminating in his impugned proceedings No.7503 dated 11.06.2008, quash the same and direct the first and second respondents to forthwith restore water and sewerage connection to the petitioner's premises situated at No.142 (66), Velacherry Road, Chennai - 600 042.

2. It is contended by the learned counsel appearing for the respondents, the writ petitioner is entitled to pay the arrears of the property tax dues to Chennai Corporation and the water tax and sewerage tax are calculated based on the assessment made by the Chennai Corporation is to be paid. The water tax and sewerage charges are calculated based on the assessment made by the Chennai Corporation for the property owned by writ petitioner in the present case. The writ petitioner had already been directed to pay the property tax as per the assessment made by the Corporation in WP.No.2928 of 2011. Thus, the water tax and sewerage tax based on the assessment made by Chennai Corporation is to be paid and accordingly, the writ petitioner is liable to pay the same in view of the orders passed in WP.No.2928 of 2011. Thus, the writ petitioner is liable to pay the water tax and sewerage charges as applicable. In the event of any grievances, the writ petitioner is at liberty to approach the competent forum redressing their grievances.

3. This Court is of an opinion that the writ petitioner is being the Company is liable to pay the property tax and water tax and sewerage charges in accordance with the Act and Rules in force.

4. Even in case of certain discrepancies, if any regarding the measurement or assessment, the writ petitioner is at liberty to approach the appellate forums contemplated under the Act and Rules. In the present case, the appeal remedy lies before the Commissioner, Chennai Municipal Corporation and thereafter, before the Taxation Appellate Tribunal and if the petitioner is still aggrieved, then further appeal is provided under the Municipal tax cases before the Principal Judge, City Civil Court, Chennai. This being the three tier appeal provisions provided under the Act. Certain complex facts and circumstances arising on account of measurement and other documents cannot be decided by this Court under Article 226 of the Constitution of India. All such complex facts and circumstances are to be adjudicated before the competent forum by producing all relevant documents and by adducing evidences.

5. This being the principles to be followed, this Court is

of an opinion that it is left open to the writ petitioner to adjudicate all these factual aspects before the competent forum by following the procedures contemplated under the Act and Rules.

6. Payment of property tax is a duty of the citizen. Every citizen are utilizing common infrastructure facilities and amenities provided by the Greater Chennai Corporation. When the Citizens are utilizing all such common amenities provided by the State and the Corporation, they are bound to pay the taxes within the time stipulated. Non payment of taxes is to be construed as an infringement of right of all other citizens residing within the jurisdiction of Chennai city. In the event of utilising all such common facilities without paying the statutory taxes, the assesse should remind himself that he is utilising all such amenities at the cost of other tax payers, who are all promptly paying the taxes. All responsible citizens should realize that they are not supposed to enjoy all such amenities and infrastructural facilities at the cost of other tax payers who are promptly paying the taxes. Thus, non-payment of taxes infringe the rights of all citizen who are residing within the jurisdiction of Chennai City. This being the principles to be adjudicated, the writ petitioner is liable to pay the assessed water tax and sewerage charges. If there is any discrepancy in respect of certain factual aspects, the writ petitioner has to produce evidences by filing an appeal before the appellate authority for redressing the grievances. However, these factual disputes cannot be adjudicated in the present writ petition.

7. Accordingly, the following orders are passed:

1. The relief as such sought for in the present writ petition stands rejected.

2. The writ petition is directed to pay the arrears of water tax and sewerage due amount of Rs.29,84,998/- within a period of six (6) weeks from the date of receipt of a copy of this order.

3. In the event of not paying the water tax and sewerage charges within the time limits stipulated above, the respondents are directed to initiate all further actions to recover the arrears of tax by following the procedures contemplated under Law.

4. On payment of the above water tax and sewerage charges, the writ petitioner is at liberty to prefer an appeal before the competent forum. In the event of any excess amount paid by the writ petitioner, the same shall be adjusted towards the furture dues or refunded to the writ petitioner.

8. Accordingly, writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

sk/pns

To
1. The Managing Director, No.1,
Chennai Metropolitan Water
Supply & Sewerage Board,
Pumping Station Road, Chinthadripet,
Chennai - 2.

2. The Asst. Engineer/Junior Engineer,
Zone -9, Chennai Metropolitan Water
Supply & Sewerage Board,
Chinthadripet, Chennai - 2.

3. The Commissioner,
Corporation of Chennai,
Chennai - 3.

+1cc to Mrs.Karthika Ashok, Advocate SR.No.67896

+1cc to Mr.N.Ramesh, Advocate SR.No.68191

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PP (CO)

GMY(26/10/2018)