IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.01.2018

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.31080 & 24347 of 2017
and W.M.P.Nos.34078 & 34079 of 2017,
25762 & 25763 of 2017

United Agro Care (India) Private Limited,
Represented by it Managing Director
Mr.S.Venkatakrishna Rao
No.11, Harrington Road,
Chetpet, Chennai 600 031.
... Petitioner in W.P.No.31080 of 2017

Apporva's Veg Restaurant
Represented by its Partner
Mr.S.Venkatakrishna Rao
No.11, Harrington Road,
Chetpet, Chennai 600 031.
... Petitioner in W.P.No.24347 of 2017

Vs.

1.The Managing Director,
Chennai Metropolitan Water and
Sewage Board,
No.1, Pumbing Station Road,
Chinthatharipet, Chennai.
Zone IX, Chennai.

2.M/s. Chellapan Trust,
Mr.Chellapan,
No.11, Muthiah Street,
Teynampet, Chennai 600 086.
... Respondents in W.P.No.31080 of 2017

1.The Revenue Officer,
Property Tax
Ward Committee Office,
Zone IX (Teynampet), Chennai.

2.M/s. Chellapan Trust,
Usilampatti, Vadagattipattu
Pudukottai District.
... Respondents in W.P.No.24347 of 2017

Prayer in W.P.No.31080 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, direction against the 1st respondent herein not to disconnect the water and sewage of the petitioner permises against the demand notice dated 17.11.2017 in Reference no.09/111/00746/000 or the arrear amount of Rs.1,53,000.

Prayer in W.P.No.24347 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in Reference No.09/R.D./2017, Bill Nos: 01540 and 00746 ward III dated 05.08.2017 and quash the same consequently direct the 1st respondent herein not to encash cheques Nos.076777, 076778, 076779 dated 07.08.2017, 07.09.2017 & 30.09.2017 respectively issued by the petitioner which was under protest and to refund the amount of Rs.2,50,000/- encashed by the 1st respondent, and not to disturb the peaceful possession of the petitioner's business property at bearing address New No.442/C1, Old No.602/C1, Anna Salai, Chennai 600 006 any further regarding the same and to collect the due payable from the owner of the property.

W.P.No.31080 of 2017 :

For Petitioner : Mr.P.Mohanprasad

For R1 : Mr.N.Ramesh

For R2 : No appearance

W.P.No.24347 of 2017 :

For Petitioner : Mr.P.Mohanprasad

For R1 : Mrs.Karthikaa Ashok

For R2 : No appearance

COMMON ORDER

Heard Mr.P.Mohanaprasad, learned counsel for the petitioners, Mrs.Karthikaa Ashok, learned standing counsel for the respondent Corporation of Chennai and Mr.N.Ramesh, learned counsel for the Chennai Metropolitan Water and Sewage Board (CMWSSB).

2. The petitioner is the tenant of the second respondent Trust who is in occupation of two premises owned by the second respondent Trust, in which, the petitioner is running a vegetarian restaurant and a private limited company. Since the second respondent Trust defaulted in payment of property tax, the respondent Corporation of Chennai as well as the Chennai Metropolitan Water and Sewage Board issued notices to the petitioners who are the occupiers of the premises, they are well within their jurisdiction in doing so since the owner of the property has not paid taxes. Inspite of notices having been served on the second respondent, namely, Mrs.Chellappan Trust and their name was printed in the cause list, they have not appeared before this Court, though the matter has been pending for several months.

3. Considering the fact that the respondent Corporation as well as the Chennai Metropolitan Water Supply and Sewage Board have jurisdiction to recover taxes from the occupier of the premises, if the owner defaults in payment, the impugned action of the respondent Corporation as well as Chennai Metropolitan Water and Sewage Board is perfectly in order and cannot be interfered with. However, considering the fact that the interest of the revenue has to be protected and the petitioner being only a tenant, cannot be made put to extreme prejudice virtually at the cost of closing down their business activities. Therefore, this Court expressed that the petitioner should be the pro-active in the matter and agree to clear the arrears of property tax and water and sewage tax as well pay the tax payable in future.

4. The learned counsel for the petitioner sought time to get instructions from his client and accordingly has filed the schedule of payment as to how the petitioners are prepared to liquidate the arrears of property tax and the water and sewage tax.

5. For better appreciation, the schedule of payment is detailed hereunder:

SCHEDULE OF PAYMENT

(W.P.No.31080 of 2017)

Total Demand Raised for Water Tax 1,56,019

Payment of Installments:

Month		
February	:	40,000

March	:	40,000
April	:	20,000
May	:	37,356
June	:	18,663
Total	:	1,56,019

SCHEDULE OF PAYMENT
(W.P.No.24347 of 2017)

Total Demand Raised for Property tax	:	5,92,644
Amount Paid	:	2,50,000
Balance	:	3,42,644

Payment of Installments:

Month		
February	:	80,000
March	:	80,000
April	:	1,00,000
May	:	82,644
Total	:	3,42,644

6. The above repayment schedule was furnished to the learned counsels appearing for the respondent and the official of the respondent Corporation is also present and their appears to be no serious objection for accepting the payment in installments as the endeavor of the respondent Corporation and Chennai Metropolitan Water and Sewage Board is to recover the taxes.

7. The learned counsel for the petitioner would submit that the petitioner would strictly abide by the schedule of payment and liquidate the arrears of tax and also agreeable to pay future tax in the same proportion as demanded by the respondent Corporation/Board.

8. These submissions are placed on record. One apprehension in the mind of the petitioner is that the second respondent Trust may initiate action against the petitioners for non-payment of rent and there is no likelihood and they will be

treated as defaulter. The petitioner need not have such an apprehension in this regard because inspite of opportunity, the second respondent Trust has not appeared before this Court. Furthermore, a statutory liability has to be settled by the owner of the premises and upon default committed by the owner, the respondent Corporation/Board is entitled to recover the same from the occupier. So the petitioners will be discharging the statutory liability for and on behalf of the second respondent Trust and therefore, they cannot be treated as tenants in default.

9. In the result, these writ petitions are disposed of by directing the petitioners to adhere to the above schedule of payment and liquidate the arrears of tax payable to the Corporation of Chennai and Chennai Metropolitan Water and Sewage Board and continue to pay the tax for the subsequent assessment years till the issue is resolved between themselves and the second respondent. Consequently, connected miscellaneous petitions are also closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

sji/csee

To

1.The Managing Director,
Chennai Metropolitan Water and
Sewage Board, No.1, Pumbing Station Road,
Chinthatharipet, Chennai. Zone IX, Chennai.

2.The Revenue Officer,
Property Tax
Ward Committee Office,
Zone IX (Teynampet), Chennai.

+1cc to Mr.N.Ramesh, Advocate SR.No.6378

W.P.Nos.31080 & 24347 of 2017
and W.M.P.Nos.34078 & 34079 of 2017,
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KJI(CO)
GN(17/02/2018)