IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2018

CORAM :

THE HONOURABLE Mr.JUSTICE S.M. SUBRAMANIAM

W.P.No.13179 of 2015 and
M.P.No.1 of 2015

Chennai Public School,
Rep. by its Chairman,
A-80, 3rd Avenue,
Anna Nagar,
Chennai - 600 102. ... Petitioner

Vs

1. The Commissioner,
   Corporation of Chennai,
   Chennai - 600 003.

2. The Managing Director,
   Chennai Metropolitan Water Supply and Sewerage Board,
   No.1, Pumping Station Road,
   Chitadripet, Chennai - 600 002.

3. The Area Engineer VII,
   Chennai Metropolitan Water Supply and Sewerage Board,
   No.1, T.S. Krishna Nagar,
   Mogappair, Chennai - 600 037. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records pertaining to the impugned order of demand dated 21.11.2014 issued by the 3rd respondent followed by the disconnection notice dated 05.02.2015 in Ref.No.07/089/07023/000 issued by 3rd respondent and quash the same.

For Petitioner : Mr.A.Michael Shakespeare

For R1 : Mr.R.Arunmozhi

For R2 & R3 : Mr.N.Ramesh

O R D E R

The demand made by the Chennai Metropolitan Water Supply and Sewerage Board, in respect of the payment of arrears of water tax and sewerage tax, is under challenge in this writ petition.

2. The contention raised by the petitioner in the present writ petition is that the petitioner is Chennai Public School and the Corporation of Chennai has granted exemption in payment of property tax. Thus, the writ petitioner is not liable to pay the water tax and sewerage tax to the Chennai Metropolitan Water Supply and Sewerage Board. In other words, it is contended that, once the exemption is granted in respect of payment of property tax to the Corporation of Chennai, the Chennai Metropolitan Water Supply and Sewerage Board, is not entitled to collect water and sewerage tax from the school, which has been exempted from payment of property tax.

3. The learned counsel for the respondents opposed the contention by stating that such an issue was already settled by the Hon'ble Division Bench of this Court and following said order of the Division Bench, a final order was passed by this Court, in W.P.No.10295 of 2003 on 09.02.2017, from which, Para Nos.4 and 5 are extracted hereunder :

> '' 4. The issue whether the property that is exempted from the payment of property tax should also be exempted from the payment of water and sewerage tax, came up before a Division Bench of this Court in W.A.No.239 of 2001 (Sree S.S.Jain Sthanak (prayer hall), c/o.Sree S.S.Jain Charitable Trust, rep.by its Managing Trustee Vs. Chennai Metropolitan Water Supply and Sewerage Board, rep.by its Chairman, Chennai) and by order dated 9.9.2009, this Court has held as follows:
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> > "5. We are not able to accept the contention of the learned counsel with regard to the levy and demand. Of course, the levy of water and sewerage tax has to be determined by the value of the property as determined by the Corporation for the purpose of determination of the property tax. Mere exemption granted in payment of property tax cannot be construed that the property has no value and the annual rental value cannot be determined. Only after determination of the rental value by the Corporation in accordance with the statutory provision, the demand of property tax has been determined. Of course, the levy and collection has been exempted by virtue of the order dated 25.01.1999. But that cannot be by any stretch of imagination be the impediment for the respondents authorities to levy and demand the water and 4 sewerage tax. Till the

exemption is granted in the application stated to have been filed by the appellant for exemption, the authorities/respondents are right in their levying and demanding the water and sewerage tax. That is the very reason given by the learned Single Judge for non suiting the appellant for quashing the demand."

5. This Court is bound by the aforesaid judgment and therefore, the plea of the petitioner that the first respondent cannot levy water and sewerage tax on the ground that the petitioner has been exempted from the payment of property tax to the Corporation of Chennai, cannot be sustained. However, before levying water and sewerage tax, the Corporation of Chennai should first assess the annual rental value of the property and only thereafter the first respondent can fix the water and sewerage tax and make a demand from the petitioner.''

4. This apart, the learned counsel for the respondents brought to the notice of this Court that the exemption granted in favour of the writ petitioner by the Corporation of Chennai, from payment of the property tax was cancelled. In this regard, it is contended that the writ petitioner is made liable to pay the property tax also, to the Corporation of Chennai. Accordingly, the writ petitioner has to pay the property tax to the Corporation of Chennai.

5. This apart, the legal principles in respect of payment of water tax and sewerage tax was formulated by this Court, by stating that, exemption from payment of property tax will not be a ground to seek further exemption from payment of water tax and sewerage tax, to be paid to the Chennai Metropolitan Water Supply and Sewerage Board. Even in case of grant of exemption by Corporation of Chennai from paying the property tax, the assessee is liable to pay the water and sewerage tax to the Chennai Metropolitan Water Supply and Sewerage Board, which, being the principle laid down by this Court, in the judgment cited supra.

6. Hence, the writ petitioner cannot be exempted from payment of water tax and sewerage tax to the Chennai Metropolitan Water Supply and Sewerage Board and accordingly, there is no irregularity or infirmity in respect of demand notice issued by the respondents. The water tax and sewerage tax arrears, as of now, in respect of the writ petitioner's premises is, Rs.32,08,368/-.

7. This being the factum of the case, the following orders are passed :

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

ii. The writ petitioner is directed to pay the arrears of water tax and sewerage tax due to the Chennai Metropolitan Water Supply and Sewerage Board, within a period of six weeks from the date of receipt of a copy of this order.

iii. In the event of failure on the part of the writ petitioner, in paying the arrears of water tax and sewerage tax, within the time stipulated above, the Chennai Metropolitan Water Supply and Sewerage Board is directed to initiate all further action to recover the arrears of tax, by following the procedures, as contemplated under law.

iv. The writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

mkn

To

1. The Commissioner,
   Corporation of Chennai,
   Chennai - 600 003.

2. The Managing Director,
   Chennai Metropolitan Water Supply and Sewerage Board,
   No.1, Pumping Station Road,
   Chitadripet, Chennai - 600 002.

3. The Area Engineer VII,
   Chennai Metropolitan Water Supply and Sewerage Board,
   No.1, T.S. Krishna Nagar,
   Mogappair, Chennai - 600 037.

+1cc to Mr.Micheal Shakesphere, Advocate, S.R.No.63403.
+1cc to Mr.N.Ramesh, Advocate, S.R.No.63872.
+1cc to Mr.R.Arunmozhi, Advocate, S.R.No.63347.

W.P.No.13179 of 2015

rrs 01/10/2018