

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.6918 & 6919 of 2018
and
WMP.Nos.8561 & 8562 of 2018

K.Ashok Rao

.. Petitioner
(in WP.Nos.6918 & 6919 of 2018)

Vs.

- 1.Chennai Metropolitan Water Supply and Sewerage Board
Rep. by its Managing Director
No.1, Pumping Station Road,
Chintadripet, Chennai-600 002.
- 2.The Area Engineer
Chennai Metropolitan Water Supply and Sewerage Board,
Zone-7,
No.1, T.S.Krishna Nagar, Ambattur,
Chennai-600 037.
- 3.The Deputy Collector
Chennai Metropolitan Water Supply and Sewerage Board,
Zone-7,
No.1, T.S.Krishna Nagar, Ambattur,
Chennai-600 037.
- 4.The Commissioner
Corporation of Chennai
Rippon Buildings,
No.1131, EVR Periyar Salai, Park Town
Chennai-600 003.

.. Respondents
(in WP.Nos.6918 in Respondent 1,2 & 4 in WP.6919/2018)

- 5.The Senior Accounts Officer,
Chennai Metropolitan Water Supply and Sewerage Board,
Zone-7, No.1, T.S.Krishna Nagar, Ambattur
Chennai-600 037.

...2nd Respondent in WP.6919/2018

Writ petition No.6918 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order namely Dstraint Notice dated 27.02.2018 sent by the third respondent to the petitioner demanding a payment of Rs.76,972/- bearing Assessment No.07/086/02250/000 and to quash the said impugned orders and to direct the respondents 1 to 3 to assess CMWSS tax based on the property tax fixed as per the compromise memo filed in E.P.No.19 of 2009 at District Munsif Court at Ambattur.

Writ petition No.6919 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned orders namely Dstraint Notice dated 09.05.2017 and a subsequent Demand Notice dated 24.07.2017 bearing Assessment No.07/086/02251/000 sent by the third and second respondents respectively to the petitioner demanding a payment of Rs.3,11,304/- and to quash the said impugned orders and to direct the respondents 1 to 3 to assess CMWSS tax based on the property tax fixed as per the compromise memo filed in E.P.No.19 of 2009 at District Munsif Court at Ambattur.

For Petitioner : Mr.B.Deepak Narayanan
(in WP.Nos.6918 & 6919 of 2018)

For Respondents : Mr.N.Ramesh
standing counsel for R1 to R3

Mrs.Karthikaa Ashok
standing counsel, for R4.
(in WP.Nos.6918 & 6919 of 2018)

C O M M O N O R D E R

In both these writ petitions, the petitioner is one and the same. He is aggrieved against the Dstraint Notices dated 27.02.2018 and 09.05.2017 respectively and a subsequent demand for payment of water tax bearing Assessment Nos.07/086/02250/000 & 07/086/02251/000.

2. Heard Mr.B.Deepak Narayanan, learned counsel for the petitioner, Mr.N.Ramesh, learned standing counsel for the respondents 1 to 3 and Mrs.Karthikaa Ashok, learned standing counsel for the fourth respondent/Corporation of Chennai.

3. The main grievance expressed in both these writ petitions is that when the water tax demand in respect of the subject

matter property in both these writ petitions, should have to be made in consonance with the property tax assessed by the Corporation of Chennai, the impugned demand for payment of such tax is made without considering the fact that the Corporation has reversed the property tax in pursuant to a compromise memo filed in EP.No.19 of 2009 before the District Munsif Court, Ambattur in O.S.No.23 of 2006.

4. The learned standing counsel for the fourth respondent admitted to the position that the property tax originally enhanced by the Corporation of Chennai was subsequently reversed in terms of the compromise memo filed in EP.No.19 of 2009 as stated supra and therefore, the demand for payment of water tax will have to be worked out in accordance with the property tax assessed and as exists today in respect of the property belonging to the petitioner. Therefore, it is stated that a fresh assessment will be made based on the existing property tax assessed by the Corporation of Chennai and fresh demand will be made to the petitioner, accordingly.

5. The learned counsel for the petitioner submitted that the petitioner has already made some payment towards the water tax and therefore, such payment has to be adjusted while making fresh demand.

6. Upon hearing both sides, the undisputed fact remains that the property tax originally enhanced by the Corporation of Chennai in respect of the subject matter properties, was subsequently reversed in terms of the compromise memo filed in EP.No.19 of 2009 between the petitioner and the Corporation of Chennai. It is also not in dispute that the demand for water tax is to be made only in consonance with the property tax assessed by the Corporation of Chennai. As it is admitted by the learned standing counsel appearing for the respondents 1 to 3 that fresh assessment will be made as per the existing property tax assessment, these writ petitions are allowed on the following terms:

(a) The impugned proceedings are set aside and the matter is remitted back to the second respondent for re-doing the assessment and issue a fresh demand in consonance with the property tax assessed by the Corporation of Chennai.

(b) Such exercise shall be done by the second respondent within a period of four weeks from the date of receipt of a copy of this order.

(c) If any amount is already paid by the petitioner towards the arrears of water tax, the same shall be taken into consideration

while making a fresh assessment.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Managing Director
Chennai Metropolitan Water Supply and Sewerage Board
No.1, Pumping Station Road,
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- 5.The Senior Accounts Officer,
Chennai Metropolitan Water Supply and Sewerage Board,
Zone-7, No.1, T.S.Krishna Nagar, Ambattur
Chennai-600 037.

+1cc to Mr.N.Ramesh, Advocate, S.R.No.54449

+1cc to Mr.Deepak Narayanan, Advocate, S.R.No.55088

+1cc to Mr.A.Karthika Ashok, Advocate, S.R.No.54436

W.P.Nos.6918 & 6919 of 2018

SV(CO)
GSP(21/08/2018)