IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.19064 of 2018
and W.M.P.No.22449 of 2018

Mr.Pootramal Ranka ... Petitioner

-vs-

1.The Managing Director,
CMWSS Board,
No.1, Pumping Station Road,
Chennai-600 003.

2.The Special Tahsildar,
CMWSS Board,
No.1, Pumping Station Road,
Chennai-600 003.

3.The Assistant Engineer, Depot-59,
CMWSS Board,
No.1, Pumping Station Road,
Chennai-600 003. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the first respondent to dispose the appeal dated 12.03.2015 within stipulated time.

For Petitioner : Mr.V.Nithyanandam

For Respondents: Mr.N.Ramesh, Standing Counsel

O R D E R

Heard Mr.V.Nithyanandam, learned counsel for the petitioner and Mr.N.Ramesh, learned Standing Counsel accepting notice on behalf of the respondents.

2.With the consent on either side, this writ petition is taken up for final disposal.

3.The petitioner has filed this writ petition to direct the first respondent to dispose of the representation dated 12.03.2015, which according to the petitioner is an appeal petition. The said representation has been given to the Managing Director of the respondent - Board and he is not the appellate authority, who can decide as to whether the demand of water and sewerage tax at the rates as demanded is just and proper and in accordance with law. The authority, which can decide the correctness of such demand is the Taxation Appellate Tribunal. Therefore, the petitioner cannot seek for any direction from this Court to direct the first respondent to dispose of the representation dated 12.03.2015, as if it is an appeal petition.

4.According to the petitioner, the property owned by him does not have either water or sewerage connection. However, there is no exemption from payment of water and sewerage tax in such cases and the only exemption is mere collection of water and sewerage charges. The legal position is that there is no quid pro quo for demand of tax.

5.The learned Standing Counsel for the respondent - Board submitted that though the building does not have water connection, it has got sewerage connection. Therefore, the petitioner has to pay water tax and sewerage charges. The total outstanding as on date is Rs.1,02,846/- (Rs.11,196/- - Water Tax & Rs.91,650/- - Sewerage Charges). Since the petitioner has questioned the impugned levy, this Court is inclined to grant liberty to the petitioner to file an appeal before the Taxation Appellate Tribunal subject to certain conditions.

6.Accordingly, this writ petition is disposed of with a direction to the petitioner to pay 50% of Rs.1,02,846/- within a period of five weeks' from the date of receipt of a copy of this order. If such payment is made, then the petitioner is granted fifteen days' time from the date of payment to file an appeal before the Taxation Appellate Tribunal along with a copy of this order. If such appeal is filed, the Taxation Appellate Tribunal shall not reject the same on the ground of limitation, but decide the matter on merits and in accordance with law, after affording sufficient opportunity to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Managing Director,
CMWSS Board,
No.1, Pumping Station Road,
Chennai-600 003.

2.The Special Tahsildar,
CMWSS Board,
No.1, Pumping Station Road,
Chennai-600 003.

3.The Assistant Engineer, Depot-59,
CMWSS Board,
No.1, Pumping Station Road,
Chennai-600 003.

+ 1 cc to M/s. N. Ramesh, Advocate SR.50725
+ 1 cc to M/s. V.Nithyanandam, Advocate Sr.50923

Writ Petition No.19064 of 2018

KAN(CO)
EU(21/08/2018)