IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2018

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

WP No.30568 of 2018
and
WMP.No.35654 of 2018

Pondicherry Institute of Medical Sciences
Represented by its Chairman Dr.K.Jacob,
Kalapet,
Puducherry - 605 014. ... Petitioner

vs.

1. The Government of Puducherry
Represented by its Secretary
Local Administration Departmental
Puducherry - 605 001.

2. The Oulgaret Municipality
Represented by its Revenue Officer
Puducherry - 605 005. ...Respondents

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in order dated 26.10.2018 in Ref.No.3542/OM/Revenue/Property Tax/2018 and the property tax demand notice enclosed therein dated 26.10.2018 in Notice No.201800683, quash the same and consequently, direct the 2nd respondent to refund the amount of Rs.27,84,415/- paid by the petitioner towards property tax demand for the period from 2010-2011 to 2016-2017.

For Petitioner : Mr.A.L.Somayaji
Senior Counsel
for M/s.A.Jenasenan

For Respondents: Mr.J.Kumaran
Additional Government Pleader (P)

O R D E R

Mr.J.Kumaran, learned Additional Government Pleader

(Pondicherry) takes notice for the respondent. By consent of the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the demand notice dated 26.10.2018. Consequently, the petitioner seeks for a direction to the second respondent to refund an amount of Rs.27,84,415/- paid by the petitioner towards the property tax for the period from 2010-2011 to 2016-2017.

3. The case of the petitioner-Institution is as follows:

It is established by a society called Madras Medical Mission in the year 2000, whose object is to run educational institutions. The petitioner-Institution is a religious minority institution. The petitioner-Institution is functioning in the land measuring an extent of about 15,12,839 sq.ft situated at Ganapathichettikulam, wherein buildings were erected approximately for 2,64,436 sq.ft and the buildings erected by the petitioner-Institution are used exclusively for educational and its allied purposes. Section 124(c) of the Puducherry Municipalities Act, 1973, grants exemption from payment of property tax to the buildings used for educational purpose including hostels etc., Therefore, the petitioner's buildings are statutorily exempted from payment of property tax. However, the petitioner-Institution have paid the property tax from 2010-2011 to 2016-2017, in pursuant to the demand made by the authorities with a bona fide belief that the second respondent has power to impose and collect the property tax from the petitioner. However, in view of the statutory provision viz., Section 124(c) of the Puducherry Municipalities Act, 1973, granting general exemption for the buildings used for educational purpose from payment of property tax, the petitioner made a representation to the respondents on 20.06.2018 to exempt them from payment of property tax, as they are only running the educational institutions in the subject matter properties. When the said request is still pending before the second respondent, the present impugned demand notice was issued, calling upon the petitioner to pay the property tax for the period from 2017-2018 & 2018-2019.

4. Mr.A.L.Somayaji, learned Senior Counsel appearing for the petitioner submitted that even though the petitioner's buildings are exempted from payment of property tax, as contemplated under Section 124(c) of the Puducherry Municipalities Act, 1973, earlier payments were made by the petitioner under the wrong impression as though the respondents are entitled to collect the same. Therefore, he contended that the earlier payments made by the petitioner cannot be put against them to deny the statutory exemption granted under Section 124(c) of the Puducherry Municipalities Act, 1973. He further contended when the

representation made by the petitioner seeking for exemption of the property tax is still pending consideration, the impugned demand notice cannot be sustained.

5. On the other hand, the learned Additional Government Pleader for the respondents submitted that even though Section 124(c) of the Puducherry Municipalities Act, 1973, grants general exemption for the buildings used for educational purpose, the first proviso to the provisions excludes the property for which the rent is being paid by the person or the persons using the same for the purposes referred to in the said clause (c) of Section 124.

6. This Court at this stage is not expressing any view on the rival contentions of the parties, more particularly, when the representation made by the petitioner before the second respondent dated 20.06.2018 seeking for exemption from payment of property tax, as contemplated under Section 124(c) of the Puducherry Municipalities Act, 1973, is still pending. Therefore, it is for the second respondent to consider the said representation dated 20.06.2018 and pass orders on the same without loss of further time.

7. Accordingly, this writ petition is disposed of, by directing the second respondent to consider the representation of the petitioner dated 20.06.2018 and pass orders on the same on merits and in accordance with law. 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. Till such time, the impugned demand shall be kept in abeyance. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary
The Government of Puducherry,
Local Administration Departmental
Puducherry - 605 001.

2.The Revenue Officer,
The Oulgaret Municipality
Puducherry - 605 005.

+2cc to Mr.A.Jenasenan, Advocate, S.R.No. 79299
+1cc to the Government Pleader(Pondicherry), S.R.No. 79261

WP. No.30568 of 2018

CNR(CO)
GN(11/12/2018)