



IN THE HIGH COURT OF JUDICATURE OF MADRAS
DATED: 25.06.2019

WEB COPY

CORAM:
THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP.No.11472 of 2011
and
M.P.No.1 of 2011

R.Gurumurthy

Vs

... Petitioner

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

2. The Assistant Engineer/JR.Engineer,
Chennai Metropolitan Water Supply
and Sewerage Board,
Zone 9, Area 140,
Balaji Nagar, 3rd Cross Street,
Eekattuthangal,
Chennai - 600 097.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India to issue a Writ of Certiorari quashing the
demand notice in Ref.No.09/140/1197/00 dated 07.12.2010 issued
by the 2nd Respondent.

For Petitioner : Mr.K.M.Ramesh

For Respondents: Mr.I.David Singh

O R D E R

The order under challenge is to a demand of Water and
Sewerage Taxes and charges levied from 2nd half of 2006 to 2nd
half of 2010.

2. Though the petitioner has raised several grounds
challenging the authority for levy of demand, one of the main
grounds raised by the petitioner is that though he has been
paying necessary dues to the respondents herein, the demand
notice has been given without any prior notice calling for his
objections nor was any detailed calculation as to how taxes and
charges came to be revised retrospectively.



3. On perusal of the impugned demand order, it is seen that there is no reference to any prior notice issued to the petitioner while retrospectively revising the taxes and charges. The counter affidavit filed by the respondents also does not reveal that the petitioner has given opportunity to put forth his objections.

4. While that being so, the main ground raised by the petitioner seems to be acceptable and as such, demand made would be in violation of principle of natural justice.

5. This Court in various decisions has held while retrospective revision is done and demand made accordingly, the consumer is entitled to be heard before such revision is made and in the absence of the same, demand itself would be illegal.

6. Nevertheless, if the first respondent is granted liberty to re-assess such revision, after giving opportunity to the petitioner to raise his objections, the interest of the department would be secured and thereby, the ends of justice would be made.

7. In the light of the above observations, the demand order dated 07.12.2010 in Ref.No.09/140/1197/00 issued by the 2nd Respondent is hereby set aside and the matter is remanded back to the second respondent herein who shall give a proper notice to the petitioner herein calling for his objections with regard to the proposed revision and on receipt of such objections, if any, the second respondent shall consider the same after giving due opportunity to the petitioner and pass appropriate orders in accordance with law as expeditiously as possible.

8. The writ petition stands disposed of, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

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To

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



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Chennai Metropolitan Water Supply
and Sewerage Board,
Zone 9, Area 140,
Balaji Nagar, 3rd Cross Street,
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Chennai - 600 097.

+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.52826

+1cc to Mr.I.David Singh, Advocate, S.R.No.53046

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and
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NMI (CO)

RRS (13/08/2019)