

IN THE HIGH COURT OF JUDICATURE OF MADRAS
DATED: 25.06.2019

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

WP.No.11473 of 2011
and
M.P.No.2 of 2011

R.Gurumurthy

...Petitioner

Vs

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.09/140/1196/00 dated 25.03.2011 issued
by the 2nd Respondent.

For Petitioner : Mr.K.M.Ramesh

For Respondents: Mr.I.David Singh

ORDER

The order under challenge is to a demand of Water and
Sewerage Taxes and charges levied from 1st half of 2001 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 the subject
premises is only a Godown where neither water connection nor
sewerage connection had obtained, 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. The learned counsel for the respondents would submit that the subject premises has sewerage connection and as such, they are justified in revising the taxes.

4. 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.

5. 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.

6. 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.

7. This Court exercising its power under Article 226 of the Constitution of India will not be justified in going into these disputed facts and that it would be appropriate to direct the second respondent here in to conduct proper inspection in the presence of the petitioner for the purpose of ascertaining the real fact as to whether any water or sewerage connection to the subject premises.

8. In the light of the above observation, the impugned demand order dated 25.03.2011 passed in Ref.No.09/140/1196/00 is set aside and consequently, the matter is remanded back to the second respondent for a fresh consideration. The second respondent is directed to conduct proper inspection to the subject premises in the presence of petitioner for the purpose of ascertaining as to the existence of water and sewerage connection and thereafter, give notice to the petitioner calling for his objections. On receipt of such objections, if any, the second respondent shall consider the same on its own merits and pass orders in accordance with law.

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

Sd/-

Assistant Registrar (CS VI)

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Sub Assistant Registrar

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To

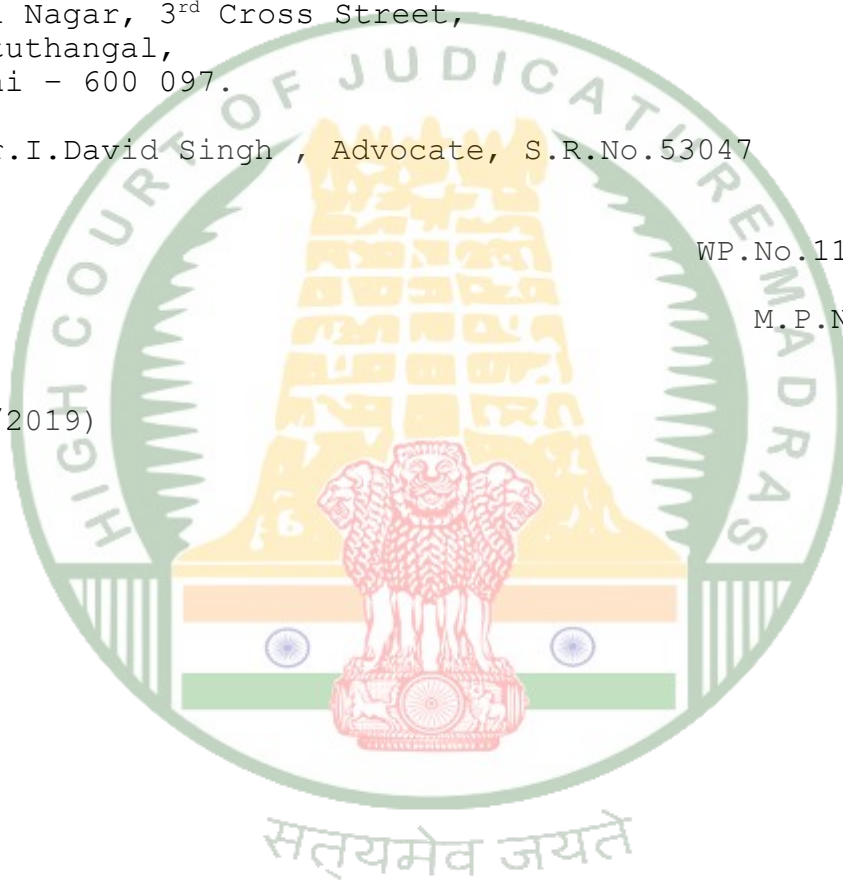
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+1cc to Mr.I.David Singh , Advocate, S.R.No.53047

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NMI (CO)

RRS (13/08/2019)



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