



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.14383 of 2013

and

M.P.(MD)No.1 of 2013

M.Natchimuthu

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai-09.

2.The Commissioner,
Rural Development and Panchayat Raj
Department, Panagal Building,
Chennai-600 015.

3.The District Collector,
Karur District,
Collectorate, Karur.

4.The President,
Kathaparai Village Panchayat,
Kathaparai,
Karur-639 117.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the respondents to levy house tax at minimum rate without any surcharge for the petitioner's Educational institutions.

For Petitioner : Mr.R.Narayanan
For Respondents : Mr.A.Thiyagarajan,
Government Advocate.

ORDER

The petitioner is a Trust running a School and College at Karur.

2.Learned counsel for the petitioner states that as per Schedule I of the Tamil Nadu Panchayat Act, 1994, the house tax



levied by the Panchayats are being defrayed promptly every year. A request has however been made by the Association ie., Karur District Private Schools' Association on 28.02.2013 requesting a revision of tax to 50 paise per square feet and exemption from surcharge.

3. Even during the pendency of the aforesaid representation dated 28.02.2013, the impugned notices dated 20.07.2013 have been received from the fourth respondent ie., the President, Kathaparai Village Panchayat, Karur calling upon the petitioner to remit alleged arrears of property tax for the period 2008-09 to 2012-13 both in respect of the School and College building. It is as against the aforesaid impugned notices that the present Writ Petition has been filed.

4. Though several opportunities have been granted to the fourth respondent for filing counter, including a final opportunity on 11.07.2019, R4 is called absent, today. Neither has a counter been filed.

5. Be that as it may, the District Collector / R3 has filed a counter wherein at paragraph 4 reference is made to Rule 15(c) of the Tamil Nadu Village Panchayats (Assessment and Collection of Taxation) Rules, 1999 as referred in G.O.Ms.No.225, RD Department dated 13.12.1999 to the effect that Educational Institutions that are non-commercial in nature would exempt from the levy of house tax.

6. In the present case, the educational institutions in question are stated to be collecting substantial amounts by way of fee ie., building development charges and miscellaneous charges apart from tuition fees, which according to the respondent clearly reveals that they are being run on commercial lines. Hence, according to the third respondent, the exemption sought cannot be extended to the petitioner.

7. This may be so. However, it was incumbent upon the authorities to have issued a notice to the petitioner calling for objections in this regard prior to raising the impugned notices. Admittedly, the impugned demands have not been preceded by a show-cause notice or by an order of assessment.

8. I have, thus, no hesitation in setting aside the impugned demands dated 20.07.2013. The authority concerned will issue a notice to the petitioner within a period of three weeks from today in regard to the house tax payable. After affording opportunity to the petitioner to make its submissions / objections thereupon, and after careful consideration of the same, orders of assessment shall be passed quantifying the house tax payable. This exercise shall be completed within a period of eight weeks from today.



9.This Writ Petition is disposed of in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

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// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai-09.

2.The Commissioner,
Rural Development and Panchayat Raj
Department, Panagal Building,
Chennai-600 015.

3.The District Collector,
Karur District,
Collectorate, Karur.

4.The President,
Kathaparai Village Panchayat,
Kathaparai,
Karur-639 117.

+1 CC to SPL GP SR-79421.

+1 CC to Mr.R.NARAYANAN, Advocate SR-79586.

W.P (MD) No.14383 of 2013

01.08.2019

CS(10.09.2019) 3P 7C