BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **19.09.2019**
CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.(MD)No.945 of 2019
and
C.M.P.(MD)No.8560 of 2019
in
WP(MD)No.3673 of 2019

C.Manickam ... Petitioner /Appellant

Vs.

1. The Commissioner,
Thiruthangal Municipality,
Virudhungar District.

2. The Regional Deputy Director of
Municipal Administration,
Tirunelveli, Tirunelveli District. ... Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order passed in W.P.(MD)No.3673 of 2019 dated 24.04.2019.

Prayer in WP(MD). 3673/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent pertaining to its order bearing Na.Ka.No.834 / 2018 / A1 dated 07.01.2019 and quash the same and consequently forbearing the respondents from levying property tax for the petitioners school situated at 91A Nadar Nanthavanam Street, Thiruthangal, Sivakasi Taluk, Virudhunagar District by considering the representation of the petitioner dated 09.01.2019

For Appellant : Mr.S.C.Herold Singh
For Respondents : Mr.S.Angappan
Government Advocate

JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.C.Herold Singh, learned counsel appearing for the appellant and Mr.S.Angappan, learned Government Advocate for the respondents.

2. This appeal has been filed challenging the order passed in W.P.(MD)No.3673 of 2019, dated 24.04.2019, which was dismissed by the learned Single Bench. The petitioner is a self financing Institution, Matriculation School. The challenge in the writ petition was to the order passed by the respondent Municipality levying property tax for the appellant's School building and the land appurtenant to the building. The first half yearly tax has been determined at Rs.90,984/- and the appellant has also been directed to pay a total sum of Rs.2,72,952/- being the tax payable for the second half year 2017-18, first half year 2018-2019 and second half year 2019-2019.

3. The petitioner's case is that the amendment to the relevant statute is the subject matter of the challenge before the Principal Bench of this Court and there are interim orders and the benefit of such orders should be extended to the appellant's Institution as well.

4. Admittedly, the appellant's Institution is a Self Financing Institution and there is no challenge to the statute, which has been amended to bring such Institutions like the appellant's Institution within the fold of the enactment, so as to levy property tax. Therefore, in our considered view, the appellant cannot escape from the liability of payment of property tax. However, we find that the notice, dated 07.01.2019, which was impugned in the writ petition is shown as final notice. On a reading of the notice, we can find that no particulars are available as to how the tax was computed. Though we hold that the appellant is liable to pay the property tax, the assessment should be done in a proper manner and the appellant should be put on notice as to how the amount of Rs.90,984/- has been arrived at. Therefore, we intend to dispose of this writ appeal by issuing directions. It is not only in the interest of the appellant, but also in the interest of the respondent Municipality.

5. In the result, this writ appeal is disposed of with the following directions:-

(1) the appellant is directed to pay the amount as demanded by notice, dated 07.01.2019 without prejudice to the right to contest the assessment of property tax;

(2) in order to entitle the appellant to contest the determination of half-yearly property tax, we direct the respondent Municipality to furnish the calculation, based on which the said amount has been arrived at, within a period of two weeks from the date of receipt of a copy of this judgment.

(3) on receipt of the calculation, we give liberty to the appellant to give his objections. On receipt of such objections,

the Officer of the Municipality can inspect the appellant's School building and the land appurtenant thereto and take note of the objections and determine the property tax, which is actually payable in accordance with law. In the event of redemption in the amount now demanded, then it goes without saying that the payment can be adjusted towards the tax payment for the subsequent half year.

(4) it is made clear that whatever remittence of property tax is made, the appellant shall abide by the decision, which will be arrived at in a batch of cases, where the declaratory relief has been sought for challenging the amendment to the Tamil Nadu District Municipality Act, 1920.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Commissioner,
Thiruthangal Municipality,
Virudhungar District.

2.The Regional Deputy Director of
Municipal Administration,
Tirunelveli, Tirunelveli District.

+1 CC to Mr.S.C.HEROLD SINGH, Advocate (SR-88463[F] dated 23/09/2019)

ORDER MADE IN
W.A.(MD)No.945 of 2019
19.09.2019

TA
MK (03.10.2019) 3P 4C