BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2020

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THE HONOURABLE **MR.JUSTICE G.R.SWAMINATHAN**

W.P.(MD)No.9602 of 2020
and
W.M.P.MD)Nos.8648 & 8649 of 2020

Dr.Radhakrishnan Vidhyalaya Matriculation
Higher Secondary School,
Rep.by its Correspondent,
No.126, Railway Feeder Road,
Sattur, Virudhunagar District.
... Petitioner

Vs.

The Commissioner,
Sattur Municipality,
Virudhungar District.
... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the respondent in his proceedings in Na.Ka.No.156/2018/A1, dated 26.07.2018 and the consequential order passed by the respondent in Na.Ka.No.Nil, dated 05.03.2020 and quash the same and direct the respondent to follow the procedure contemplated in Section 82, 124 schedule IV of the Tamil Nadu District Municipalities Act, 1920.

For Petitioner : Mr.V.Panneer Selvam

For Respondent : Mr.M.Kannan,
Standing Counsel

ORDER

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondent.

2.The writ petitioner is an Educational Institution. The petitioner has been visited with the impugned order calling upon them to pay a sum of Rs.4,97,395/- towards property tax. It is seen from the impugned demand notice that the demand covered is from the year 2017-18 upto 2019-2020. The petitioner's counsel draws my attention to the order, dated 25.02.2020 passed by the Hon'ble Division Bench of this Court made in W.P.(MD)No.323 of 2019. The

Hon'ble Division Bench has held that the local body cannot demand the said tax retrospectively. The demand can be made only with effect from 01.04.2018.

3.Respectfully following the decision of the Division Bench, I have to necessarily interfere with impugned order in this writ petition. The petitioner only seeks remand of the matter to the file of the respondent.

4.The learned Standing Counsel states that similarly placed assessees have paid 50% of the demanded amount.

5.Since we are in pandemic times and the petitioner is an Educational Institution, I am of the view that a lenient approach can be adopted. At this juncture, the learned counsel appearing for the petitioner, on instructions, states that the petitioner will pay a sum of Rs.1,00,000/- within a period of four weeks towards the impugned demand. The said undertaking is recorded.

6.Since the petitioner complains that proper procedures were not taken before the issuance of impugned order, I am of the view that one more opportunity can be given to the petitioner. The learned Standing Counsel would strongly assert that due procedures were adopted in this case.

7.The order impugned in this writ petition is quashed and the matter is remitted back to the file of the respondent for fresh consideration, in accordance with law.

8.I have already recorded the petitioner's undertaking that they would pay a sum of Rs.1,00,000/- towards property tax dues to the respondent within a period of four weeks from the date of receipt of a copy of this order. The petitioner also gives an undertaking that they will fully cooperate for concluding the proceedings following this remand.

9.The respondent is directed to pass final orders, after giving opportunity of being heard to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order. The writ petition stands allowed, on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Commissioner,
Sattur Municipality,
Virudhungar District.

+1 CC to M/s.M. KANNAN, Advocate (SR-18857[F] dated 01/10/2020)

W.P.(MD)No.9602 of 2020

VR(CO)
NR (12.10.2020) 3P 3C