BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **25.02.2020**
CORAM:
THE HONOURABLE MR.JUSTICE A.P.SAHI, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.[MD]No.7307 of 2019
and
W.M.P.(MD)No.5834 of 2019

The Chairman,
Sivaji College of Engineering and Technology,
Palukal Village,
Manivila - 629 170,
Vilavancode Taluk,
Kanyakumari District. : Appellant

Vs.

1.The State of Tamil Nadu,
represented by its Secretary,
Department of Municipal Administration
and Water Supply,
Fort St,George, Chennai - 600 005.

2.The Commissioner of Municipal Administration,
Commissionarate of Municipal Administration,
6th Floor, Ezhilagam Annex Building,
Chepauk, Chennai - 600 005.

3.The Executive Officer,
Palukal Village,
Manivila - 629 170,
Vilavancode Taluk,
Kanyakumari District. : Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuing a Writ of Declaration to declare the impugned Tamil Nadu Municipal Laws (Second Amendment) Act 2018 published in the Tamil Nadu Government Gazette vide Extraordinary Notification on 25.01.2018 under Section 2 Part V and the consequential Demand Notices issued by the 3rd respondent Executive Officer, dated Nil, Vide No.48/19 (Assessment No.5318) demanding Rs.1,17,920/-, No.49/19 (Assessment No.5319) demanding Rs.1,39,480/-, No.50/19 (Assessment No.5320) demanding Rs.70,048/-, No.51/19 (Assessment No.6514) demanding Rs.56,716/-, No.52/19 (Assessment No.6515) demanding Rs.56,716/- and No.53/19 (Assessment No.6516) demanding Rs.83,184/- (in total Rs.5,24,064/-) as property tax under Rule 31 to 34 of the Schedule IV of the Tamil Nadu District Municipalities Act in respect of petitioner's six college buildings in Door Nos.19/1, 19/2, 19/3, 19/4, 19/5 and 19/6 for the period from April 2018 to March 2019 and all further proceedings towards the demand and collection of property in relation to the petitioner college as unconstitutional, ultra vires, null and void.

For petitioner : Mr.J.Shabu Jose for M/s.Isaac Chambers

For respondents 1 to 3 :Mr.V.R.Shanmuganathan Special Government Pleader

ORDER

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[Order of the Court was made by The Hon'ble Chief Justice]

Even though the challenge raised in the present writ petition is to declare the impugned Act as invalid, yet the petition does not survive in respect of the said challenge, as the issue has been finally determined by a Division Bench of this Court in a batch of Writ Petitions in W.P.No.18008 of 2018, etc. batch [Monfort Academy Matriculation Higher Secondary School Vs. the Secretary, Department of Municipal Administration and Water Supply Department, Chennai, and others], decided on 13.09.2019. However, while upholding the Act in paragraph No.46 of the judgment, the Division Bench further indicated that the Court is not going into the quantum of enhancement of tax. It was left open to the institution to file appropriate petition challenging the same.

2. Accordingly, the arguments advanced by the learned Counsel for petitioner is that in this case as well the quantum of tax now sought to be realised pursuant to the impugned notification is excessive and exorbitant, and is without carrying out the procedure for fresh assessment and revision. For this, the learned Counsel for the petitioner has invited the attention of the Court to the objection, dated 06.02.2019, filed along with the petition together with the chart indicating a steep rise in the assessment without having considered the objections.

3. So far as this issue of assessment is concerned, the power to assess property tax has been conferred under Section 82 of the Tamil Nadu District Municipalities Act, 1920. By virtue of Section 124 Schedule-IV thereto indicated that the said Schedule shall be read as part of the Chapter in which the said section is contained. Schedule IV in clause-4 provides that for the purpose of revision of an assessment of property tax, the Executive Authority can amend the same provided that no such amendment for increasing the assessment shall be made without putting the concerned assessee / person to notice and after giving a reasonable opportunity to show cause. Learned Counsel for the petitioner contends that without undertaking the aforesaid exercise, the enhancement has been proposed and therefore, the 3rd respondent has failed to comply with

the aforesaid provisions before enhancing and revising the proposed rate of tax.

4. We have considered the submissions raised and we find that under the aforesaid methodology prescribed under Act, Schedule IV provides for an assessee to be offered a reasonable opportunity to show cause prior to the revision, if it results in increase in the assessment sought to be made. In the present case, according to the petitioner, as indicated above, the revision has resulted in an enhancement of the proposed assessment of the tax and its realization from the petitioner. Consequently, while upholding the validity of the Act, we dispose of the Writ Petition that the respondent No.3 shall be under a legal obligation to consider the objections raised by the petitioner and pass appropriate orders to that effect relating to the quantum of revision in terms of the provisions referred to herein above. In the event, no such decision has been taken till date, the matter shall be disposed of expeditiously, preferably within a period of six weeks from the date receipt of a certified copy of this order. In the event, the decision has already been taken, the same shall be communicated to the petitioner and it shall be open to the petitioner to question the correctness or otherwise of the same. In the event, the petitioner is still aggrieved, he can carry forward his grievance in terms of the provision of appeal as provided under the Act, 1920.

5. The writ petition stands disposed of with the said observations.However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

/ /2020
Sub Assistant Registrar(CS)

gcg/cmr

To

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Department of Municipal Administration
and Water Supply,
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+1 CC to SPL.GP (SR-8389[F] dated 26/02/2020)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-8483[F]dated 26/02/2020)

JUDGMENT MADE IN
W.P.[MD]No.7307 of 2019
and
W.M.P.(MD)No.5834 of 2019
25.02.2020

VB(09.03.2020) 4P 6C