BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.10.2020
CORAM
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE
W.P(MD).No.14157 of 2020
and
W.M.P.(MD).No.11815 of 2020

The Correspondent
Vikaasa School,
Ponnagaram Compound,
Madurai - 625 016. .. Petitioner

Vs.

1.The State of Tamil Nadu
rep. by its Principal Secretary,
Department of Municipal
Administration and Water Supply
Fort St. George,
Chennai - 600 009.

2.The Commissioner,
Madurai Corporation,
Madurai.

3.The Assistant Commissioner/
Deputy Collector,
Madurai Corporation,
Western Zone, Madurai.

4.The Deputy Revenue Officer,
Madurai Corporation,
Western Zone, Madurai. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the 2nd respondent Corporation to consider and pass orders on the petitioner's representations to it dated 22.05.2020, 08.06.2020 and 25.09.2020 in regard to the levy of property tax in respect of the petitioner's building situated at T.S.No.819/1(p) (New T.S.No.15/2, 16/1, 16/4 & 16/7), Door No.92 & 92A, Sivanandam Salai, Ponnagaram Compound, Madurai West Taluk, Madurai, within a reasonable time as may be specified by this Court.

For Petitioner	:	Mr.K.Ragatheesh Kumar for M/s.Isaac Chambers
For Respondents	:	Mrs.M.Rajeswari Government Advocate,for RR1,3 & 4 Mr.R.Murali Standing Counsel, for R2

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the 2nd respondent Corporation to consider and pass orders on the petitioner's representations dated 22.05.2020, 08.06.2020 and 25.09.2020 with regard to the levy of property tax in respect of the petitioner's building situated at T.S.No.819/1(p) (New T.S.No.15/2, 16/1, 16/4 & 16/7), Door No.92 & 92A, Sivanandam Salai, Ponnagaram Compound, Madurai West Taluk, Madurai, within the specified time to be fixed by this Court.

2.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

3.It is the contention of the petitioner that earlier, the petitioner's school was having the benefit of exemption from property tax. Subsequently, an amendment was made to Section 122 of the Madurai City Municipal Corporation Act, 1971, by which the petitioner's school was removed from exemption. The petitioner and other Educational Institutions had challenged the amendment to Section 122 of the Madurai City Municipal Corporation Act, 1971. The Division Bench of this Court, by its order dated 13.09.2019, in *W.P.(MD).No.18008 of 2019 and etc., batch, (Monfort Academy Matriculation Higher Secondary School Vs. the Secretary, Department of Municipal Administration and Water Supply Department, Chennai and others)*, upheld the validity of the amendment and consequential increase in the property tax. In another writ petition in *W.P.(MD). No.362 of 2019*, filed by another school challenging the demand notice issued by the second respondent Corporation, pursuant to the upholding of the validity of the amendment, the first Bench of this Court by its order, dated 25.02.2020, followed the decision of the order passed by the earlier Division Bench, dated 13.09.2019, but, however, granted liberty to the petitioner therein to raise all objections available to them under law with regard to the retrospective application of the amendment and were also permitted to raise other objections in accordance with law with regard to the said demand made by the respondent corporation.

4.In the instant case, it is the contention of the petitioner, that the demand for payment of property tax cannot be made on the petitioner retrospectively and the extent of the building assessed to property tax as communicated by the respondent Corporation, in the demand made to the petitioner, for payment of property tax is also not correct. According to them, the present built up area of the petitioner's building is only 42,617 sq. feet. The last demand dated 16.07.2018, made by the second respondent Corporation, discloses that the petitioner is having a built up area of 13,36,613 sq.feet. In fact, as seen from the typed set of papers filed by the petitioner, a detailed reply has been given by the petitioner to the demand made by the second respondent Corporation.

5.It is also stated in the affidavit filed in support of the writ petition that the petitioner has been paying the property tax prior to the amendment to Section 122 of the Madurai City Municipal Corporation Act without committing any default. Even after the amendment, a total sum of Rs.9,40,000/- has been paid in two instalments. It is the contention of the petitioner that they are liable to pay the property tax only prospectively and not retrospectively and they liable to pay the property tax only to the extent of their building i.e., 42,617 sq. feet and not for 1,36,613 sq. feet as claimed by the second respondent.

6.The petitioner has given representations on 22.05.2020, 08.06.2020 and 25.09.2020 to the second respondent, seeking to consider the request for payment of property tax only from the date when the amendment to Section 122 of the Madurai City Municipal Act came into force and only for the extent of 42,617 sq. feet. It is their contention that till date their representations have not been duly considered by the respondents. In such circumstances, this writ petition has been filed.

7.No prejudice will be caused to the respondents, if the representations dated 22.05.2020, 08.06.2020 and 25.02.2020 are considered by the second respondent on merits and in accordance with law. In fact, before this Court, the petitioner has placed all the documents and orders which were referred to by the learned counsel for the petitioner in support of the petitioner's case. This Court has also perused and examined the same.

8.The First Bench of this Court, by its order, dated 25.02.2020, in a writ petition in W.P.(MD).No.362 of 2019, filed by another School, granted liberty to the School to raise all objections available to them under law for the demand made by the second respondent Corporation for payment of property tax, pursuant to the amendment made to Section 122 of Madurai City Municipal Corporation Act. The same liberty should also be given to the petitioner. It is for the second respondent to consider the objections raised by the petitioner on merits and in accordance with law.

9.For the forgoing reasons, this Court directs the second respondent to consider the petitioner's representation, dated 22.05.2020, 08.06.2020 and 25.09.2020 with regard to the levy of property tax in respect of the petitioner's School building situated at T.S.No.819/1(p) (New T.S.No.15/2, 16/1, 16/4 & 16/7), Door No.92 & 92A, Sivanandam Salai, Ponnagaram Compound, Madurai West Taluk, Madurai, and pass final orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that till such time, the second respondent shall not take any coercive steps against the petitioner with regard to the payment of demand of property tax in respect of their School building.

10.With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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

1.The Principal Secretary,
State of Tamil Nadu
Department of Municipal
Administration and Water Supply
Fort St. George,
Chennai – 600 009.

2.The Commissioner,
Madurai Corporation,
Madurai.

3.The Assistant Commissioner/
Deputy Collector,
Madurai Corporation,
Western Zone, Madurai.

4.The Deputy Revenue Officer,
Madurai Corporation,
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+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-19807[F] dated 12/10/2020)
+1 CC to M/s.GP (SR-19920[F] dated 13/10/2020)

W.P(MD).No.14157 of 2020
12.10.2020

VB (19.10.2020) 4P 7C