



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.1198 of 2019
and
W.M.P.No.1350 of 2019

(Through Video Conferencing)

Sir Ramaswami Mudaliar Higher Secondary School,
Rep.by its Correspondent Mr. N. Rajsekaran,
No.10, MTH Road,
Ambattur, Chennai - 600 053.

... Petitioner

Vs

- 1.The Secretary,
The Department of Municipal Administration and
Water Supply Department,
The Government Secretariat,
Fort St. George, Chennai - 600 009.
 - 2.The Commissioner,
Chennai Municipal Corporation,
Rippon Building, Chennai - 600 003.
 - 3.The Chairman & Managing Director,
Chennai Metropolitan Water Supply & Sewerage Board,
No.1, Pumping Station Road,
Chindatripet, Chennai - 600 002.
 - 4.The Area Engineer-VII,
Chennai Metropolitan Water Supply & Sewerage Board,
No.1, T.S.Krishna Nagar,
Mogappair, Chennai - 600 037.
 - 5.The Tahsildar/Sub Collector,
Area-VII,
Chennai Metropolitan Water Supply & Sewerage Board,
No.1, T.S. Krishna Nagar,
Mogappair, Chennai - 600 037.
- ... Respondents



Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned demand notice dated 09.07.2018 Ref.No.07/081/10929/000 issued by the fourth respondent, the consequential notice dated 09.11.2018 issued by the fifth respondent and notice dated 28.11.2018 issued by the fourth respondent and the destraint order dated 06.12.2018 Ref.No.07/081/10929/000 issued by the fifth respondent and quash the same.

For Petitioner : Mr.S.Thanka Sivan
For R1 : Ms.Amirta Poonkodi Dinakaran
Government Advocate
For R2 : Mrs.Karthikaa Ashok
Senior Standing Counsel
For R3 to R5 : Mr.N.Ramesh
Standing Counsel

ORDER

Ms.Amirta Poonkodi Dinakaran, learned Government Advocate takes notice on behalf of the first respondent, Mrs. Karthikaa Ashok, learned Senior Standing Counsel takes notice on behalf of the second respondent and Mr.N.Ramesh, learned Standing Counsel takes notice on behalf of the third to fifth respondents.

2. The petitioner has challenged the impugned demand notice seeking to demand a sum of Rs.1,87,318/- as water tax for the period commencing from second half of 2017 up to first half of 2018.

3. It is the case of the petitioner that the petitioner is exempted from payment of corporation tax under the provisions of the Chennai City Municipal Corporation Act, 1919 and since the property of the petitioner is exempted from payment of property tax, question of relying on the annual value determined by the corporation earlier cannot be the basis for demanding water tax from the petitioner.

4. It is further the case of the petitioner that the petitioner's School neither has water or sewerage connection from the Respondents Board nor water is supplied by the Respondent Board and therefore the petitioner should be exempted from payment of water and sewerage tax and the charges.



5. The learned counsel for the petitioner submits that at the time of admission an interim order was passed on 21.11.2019 whereby the petitioner was directed to deposit 50% of the demand.

6. The learned counsel for the petitioner further submits that after the said order was passed, the petitioner has also sent a representation dated 26.07.2019 to the respondents asking the respondents to re-consider the representation which may be disposed by the respondents. It is submitted that in said representation, the petitioner has requested the respondents to exempt the petitioner from payment of water and sewerage tax under sub-clause 3 to Section 34 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978.

7. The learned counsel for the petitioner submits that petitioner will be satisfied if the above representation is disposed by the respondents.

8. Considering the fact that there is no exemption as on date, this Court is inclined to direct the petitioner to pay balance/another 50% of the demand for the period till date and continue to pay till the said representation is disposed. Subject to such payment by the petitioner, the respondent shall consider the representation dated 26.07.2019 of the petitioner and dispose the same within a period of eight weeks from the date of receipt of a copy of this order.

9. In case the respondents are of the view that the petitioner can be exempted retrospectively from second half of 2017, the amount paid by the petitioner shall be refunded. On the other hand, If the request of the petitioner is rejected, the petitioner is directed to pay the balance amount and regularize the default in accordance with the provisions of the Chennai Metropolitan Water Supply and Sewerage Act, 1978.

10. This writ petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar



nst/arb

To

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+1cc to M/s.Karthikaa Ashok, Advocate SR.No.63053

+1cc to M/s.s.Thanka Sivan, Advocate SR.No.64096

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and
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PMK (CO)
CB(21/12/2021)