IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.20410 of 2012 & 16988 of 2013
and
W.M.P.Nos.1 of 2012 & 1 & 2 of 2013

P.G.P.Educatiional and Welfare Society,
Having Registered Office at
57, Sterling Road, Nungambakkam,
Chennai - 600 034,
Rep by its Secretary,
Mr.K.Kandasamy ... Petitioner in both W.Ps.

Vs.

1.The District Collector,
Namakkal District,
Namakkal.

2.The President/Executive Authority,
Vettampadi Village Panchayat,
Namakkal Taluk and District.

3.The Block Development Officer,
Namakkal Panchayat Union,
Namakkal District. ... Respondent in W.P.No.20410 of 2012

1.The District Collector,
Namakkal District,
Namakkal.

2.The president/executive Authority
Pillaikalathur Village Panchayat
Parmathivellur Taluk,
Namakkal District.

3. The Block Development Officer,
Paramathivellur Panchayat Union Namakkal District.

... Respondent in W.P.No.16988 of 2013

Prayer in W.P.No.20410 of 2012: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in respect of the impugned property tax demand notice issued by the 2nd respondent for the Assessment No.726 of 2nd respondent village panchayat dated NIL in respect of petitioner institutions, and quash the same consequently directing the respondents not to enhance property tax except under due process of law.

Prayer in W.P.No.16988 of 2012: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the 2nd respondent in and by his proceeding Na.Ka.No.1625/2011/Pan.dated 20.05.2013, and to quash the same, and consequently directing the respondents not to enhance property tax except under due process of law.

For Petitioner : Mr.Karthick Lakshmanan for
(in both W.Ps) M/s.P.T.Ramadevi
For Respondent : Mr.N.Inbanathan
(in both W.Ps) Additional Government Pleader for R1
Mr.R.Ravichandran for R2 and R3

C O M M O N   O R D E R

By this common order, both the writ petitions are disposed of.

2.The petitioner has challenged the impugned demand notice for the Assessment years 2010-2011 and 2011-2012.

3.The demand have been issued under Section 172, 174 read with clause (XXI), (XXIII), (XXIV) & (XXV) of Sub-Section (2) Section 242 of the Tamil nadu Panchayats Act, 1994. However it is noticed that no notice of hearing has been given to the petitioner before passing the impugned orders as per Rule 4 of the Tamilnadu Village Panchayat (Assessment and Collection of Taxes) rules, 1999.

4.Though in the counter, the respondents have stated that for revision of assessment in the Rule 17 of the aforesaid rule, notice has been issued and the amount which determined the tax liability and it is thereafter the petitioner was called upon to pay aforesaid amount within a period of 15 days from the date of receipt of a copy of this order. It is also noticed that on an earlier occasion also, the petitioner had also filed W.P.No.1517 of 2012. The said writ petition was disposed by an order dated 15.06.2012 with the following directions:-

> 6.Heard the learned counsel appearing on either side and perused the materials available on record. There is no dispute that before raising the demand, no assessment order was passed and no opportunity was given to the petitioner. When the authorities intend to revise the existing tax amount by passing an assessment order, they should

give an opportunity to the assessee. In the present case, no such assessment order was passed and, before raising the demand, no opportunity was given, which amounts to violation of the principles of natural justice. Considering the facts and circumstances of the case the impugned order dated 04.05.2012 passed by the second respondent is quashed with a direction to the second respondent to consider the matter afresh after giving opportunity to the petitioner to substantiate their claim and pass order in accordance with law as expeditiously as possible, preferably, within a period of four weeks from the date of receipt of a copy of this order.

5.Once again similar order has been passed by the respondent. Therefore, I am inclined to interfere by quashing the impugned order by remitting the case back to the respondent to pass a speaking order. The respondent is directed to issue a proper notice and give reasons for proposing enhancement in the tax from the petitioner. Such notice may be issued to the petitioner within 30 days from the date of receipt of this order. On such notice being issued to the petitioner, the petitioner shall filed a reply within a period of 30 days thereafter. The respondent shall thereafter pass appropriate orders in accordance with law within a period of 30 days. The amount paid by the petitioner during the pendency of the present writ petition shall be adjusted against the tax liability after appropriate determination of tax liability.

6.Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Namakkal District,
Namakkal.

2.The President/Executive Authority,
Vettampadi Village Panchayat,
Namakkal Taluk and District.

3.The Block Development Officer,
Namakkal Panchayat Union,
Namakkal District.

4.The president/executive Authority
Pillaikalathur Village Panchayat
Parmathivellur Taluk,
Namakkal District.

5. The Block Development Officer,
Paramathivellur Panchayat Union Namakkal District.

+2ccs to M/s.P.T.Ramadevi, Advocate SR.No. 215655 & 21566

W.P.Nos.20410 of 2012 & 16988 of 2013
and
W.M.P.Nos.1 of 2012 & 1 & 2 of 2013

A.SK(05.07.2021)