IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.38325 of 2016
and
W.M.P.Nos.32850 & 32851 of 2016

Raja Babu ..Petitioner

vs

1.The Chairman,
Taxation Appeals Tribunal,
Metrowater, Rippon Building,
Chennai – 600 003.

2.The Managing Director,
Chennai Metropolitan Water Supply &
Sewerage Board,
No.1, Pumping Station Road,
Chintadripet,
Chennai – 600 002.

3.The Area Engineer,
CMWSS Board, Area Office-V
(Formerly Area-VI)
No.1, M.C.Road, Old Washermanpet,
Chennai – 600 021.

4.The Deputy Collector (Recovery)
CMWSS Board (formerly Area-VI)
Now New Area-V, M.C.Road,

Chennai – 600 021.

5.The Depot Manager,
CMWSS Board (formerly Division:83)
New Division:63, M.C.Road,
Chennai – 600 021.

6.The Senior Accounts Officer,
CMWSS Board,
No.1, Pumping Station Road,
Chintadripet,
Chennai – 600 002. ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the record relating to the impugned order passed by the 1st respondent on 30.09.2016 in M.W.S.T.A.No.96 of 2015 and quash the same.

For Petitioner : Mr.Prahalad Bhat
For Mr.R.Parthasarathy

For Respondents : No appearance

ORDER

The learned counsel for the petitioner made a submission that the property tax itself has not been assessed properly and therefore, the question of payment of water tax does not arise at all.

2. However, in respect of the challenge made for payment of property tax, this Court considered the issues and passed an order on 19.04.201 in W.P.No.3410 to 3415 of 2017 and the relevant paragraphs are extracted hereunder:

> *"2. In order to recover huge arrears of water and sewerage taxes and the charges, the respondents have initiated action and notices were issued under the provisions of the Revenue Recovery Act by the Special Tahsildar (Revenue Recovery), CMWSSB, Area-V, Chennai-21.*
>
> *3. The notices state that the petitioner has to pay the tax and the charges, within a period of seven days, failing which the property belongs to the petitioner will be attached.*
>
> *4. Learned counsel for the petitioner states that the demand itself is barred by the period of limitation and therefore, now the respondents cannot recover the water and sewerage taxes from the petitioner.*
>
> *5. This apart, the water and sewerage taxes are to be assessed based on the property tax assessment made by the Corporation of Chennai and the property tax assessment was*

not made in respect of the subject matter of the property belongs to the petitioner. Thus, all these writ petitions are to be allowed.

6. The learned Standing Counsel, appearing on behalf of the respondents, seriously disputed the said contention of the learned counsel for the petitioner by stating that arrears of tax revenue, more specifically, water and sewerage taxes are concerned, there is no limitation as the demands are made periodically at the Web portals and previously issued by way of notice to the owners.

7. This apart, the Water Supply and Sewerage Board is providing a Book/Card for the purpose of making necessary entries to all the assessees. The said Book/Card itself is a demand as they will have to verify the previous entires made and accordingly pay the taxes before the expiry date. One entry will be made by the Water Supply and Sewerage Board and thereafter every assessee is bound to follow the payment of tax in the order and the payment is to be made before the expiry of the assessment period. Thus, separate demand notices will not be communicated as the assessees are very much aware that the taxes are to be paid with reference to the provisions of the Act.

8. It is contended that the Water Supply and Sewerage

Board is empowered to initiate action under Section 74 of the Act, to recover the arrears of tax as arrears of land revenue.

9. In the present cases, huge amount of water and sewerage taxes have not been paid by the petitioner right from the year 1994 onwards. Several opportunities were provided. In spite of that, the petitioner has not paid the taxes. Thus, action under the Revenue Recovery Act is initiated through the Competent Authorities by invoking Section 74 of the Act.

10. In respect of limitation in the case of ***Cosmic Industries, a Partnership Firm vs. The Madras Metropolitan Water Supply and Sewerage Board and two others****, this Court passed an order on 28.08.1990 in WP No.13894 of 1990 that in view of Section 74 of the Act, there is no period of limitation for the recovery of arrears.*

11. With reference to Section 74 of the Act, the arrears are to be recovered as full by following the procedures for recovery of arrears of land revenue under the Revenue Recovery Act. Thus, the point of limitation has no relevance as far as the recovery of water and sewerage taxes are concerned and further, in the case of ***The Madras Sanskrit College & S.S.V. Patasala, Represented by its Secretary B. Madhavan vs.***

Chennai Metropolitan Water Supply And Sewerage Board, represented by its Managing Director & Another [CDJ 2009 MHC 3297]*, again this Court reiterated that there is no limitation to demand metro water and sewerage tax and water charges as per Section 74 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978.*

12. As far as the present writ petitions are concerned, the learned counsel for the petitioner states that the building was demolished and the arrears of vacant land tax alone is to be paid. These factors are to be placed before the authorities and no details are made available in the affidavit filed in support of the present writ petitions.

13. This apart, the learned Standing Counsel for the respondents made a submission that in the property, a Cinema Theatre was functioning and the building was constructed many decades back and the same was demolished some times back. However, the property tax as well as the water and sewerage taxes are liable to be paid in accordance with the provisions of the Act.

14. The learned Standing Counsel, appearing on behalf of the respondents, states that even during the existence of building, the petitioner has not paid the water and sewerage *taxes, both in respect of theatre and in respect of other commercial buildings constructed in the subject property.*

15. At the outset, the petitioner is a chronic defaulter of payment of tax and therefore, no leniency is to be shown.

16. The Courts cannot extend any leniency or misplaced sympathy in the matter of payment of property tax and water and sewerage taxes.

17. In the present cases, the writ petitioner is restraining the respondents from recovering the taxes by filing frequent writ petitions before this Court and keep those writ petitions pending.

18. It is brought to the notice of this Court that the writ petitioner is going on filing writ petitions from the year 2003 onwards in respect of payment of water and sewerage taxes and ultimately, the authorities could not able to initiate further action to recover the taxes by following the procedures contemplated. The details regarding the cases filed by the petitioner are extracted hereunder:-

S. No.	Case No.	Status
1	WP 7528/2003 to 7533 of 2003	Dismissed by common order on

S.No.	Case No.	Status
		24.01.2013 with direction to file appeal before Tribunal. No appeal filed.
2	WP 4625/2010	Challenging demand Rs.23,49,546/- from 1994 to 31.01.2010 – WP dismissed.
3	WP 8113/2012	Disposed of by common order dated 11.06.2014 liberty to file appeal. No appeal filed.
4	WP 34037/2014	Challenging the intimation letter dated 12.11.2014. WP disposed of permitting the petitioner to file appeal as directed in WP 8113 of 2012. Till filing appeal, impugned notice kept in abeyance.
5	MWS TA 96/2015	Appeal dismissed on 30.09.2015. Directed to pay entire dues.
6	WP 38325/2016	Challenging award of Tribunal. Dismissed for Default.
7.	WP 2687/2015	Challenging demand notice dated 12.11.2014 in CMC – 05/063/04021/000. WP pending.
8	WP 3410, 3411, 3412, 3413, 3414 and 3415 of 2017 (Present Writ Petitions)	Challenging Recovery Notice dated 03.02.2017 - Refused to received notice. Hence affixed. - By showing old demand of Rs.23,49,546/- upto 2010, agreed to pay 25%^of demand and obtained stay. Rs.5,87,387/- paid.

19. The details of the properties owned by the petitioner are also extracted hereunder:-

Sl.No.	Property Address	CMC Number	Total Due
1	Jayapradha Theater and Rajbabu Door No.37/1D	05/063/90161/01D	5,40,294.75

Sl.No.	Property Address	CMC Number	Total Due
2	Jayapradha and Another Door No.37/1F	05/063/03897/000	1,53,157.00
3	Jayapradha and Another Door No.37	05/063/03963/000	2,18,731.00
4	Jayapradha and Another Door No.37/6	05/063/04021/000	1,95,036.00
5	Jayapradha and Another Door No.38	05/063/04130/000	20,76,273.00
6	Jayapradha and Rajbabu Door No.37/1D	05/063/04132/000	10,66,087.00
		Total	40,49,500.85

20. The manner in which the petitioner avoided payment of water and sewerage taxes is to be condemned and knowingly such litigative process has been adopted in order to avoid payment of tax.

21. This Court is of an opinion that the idea of the litigants to develop a litigative process and restrain the authorities from exercising their powers under the Act, can never be encouraged, but to be deprecated. The litigants are expected to redress their grievances in the manner known to law. By creating litigations, they cannot made roadblock for the authorities to exercise their powers. The writ jurisdiction cannot be abused for the purpose of developing litigative process in order to escape from the clutches of law.

22. This apart, in respect of property tax, the writ petitioner filed WP Nos.2921 and 2922 of 2010 and this Court passed an order on 04.08.2016, in paragraph-5, which reads as under:-

"5. In the light of the above, the Writ Petitions are closed, making it clear that if there are arrears of tax to be by the petitioner, it is open to the respondents to initiate fresh action in accordance with law and the petitioner cannot take the plea of limitation, when such proceedings are initiated. No costs. Consequently, connected miscellaneous petitions are closed."

23. In view of the facts and circumstances, this Court is of an opinion that the respondents are bound to proceed immediately without any undue delay, providing unnecessary scope for the petitioner to escape from the clutches of law.

24. With the above observations, the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed."

3. The writ petitioner states that there is no water connection in the premises of the petitioner and therefore, the petitioner is entitled for reduction of 50% of the charges. However, these aspects were elaborately considered by the Taxation Appeals Committee and the findings given based on the conditions of law and therefore, this Court is not inclined to interfere with the findings made by the Taxation Appeals Committee.

4. Thus, the writ petition stands dismissed. No costs. Consequently,

connected miscellaneous petitions are closed.

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Internet:Yes/No
Index:Yes/No

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S.M.SUBRAMANIAM, J.

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