IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.40969 of 2016
and
W.M.P.Nos.34941 & 34942 of 2016

(Through Hybrid Mode)

R.Mallika ... Petitioner

Vs.

1.The Judicial Officer / Chairman,
Taxation Appeal Tribunal,
(Greater Corporation of Chennai)
Chennai Metropolitan Water Supply and
Sewerage Board,
Ribbon Building, Chennai - 3.

2.The Tahsildar / Deputy Collector,
Chennai Metropolitan Water Supply and
Sewerage Board,
New Area 13, (Old Area 09),
No.42, 1st Main Road, Indira Nagar,
Chennai - 600 020.

3.The Senior Accounts Officer,
Chennai Metropolitan Water Supply and
Sewerage Board,
Head Office No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002.

4.The Commissioner,
Greater Chennai Corporation,
Ribbon Building, Chennai - 3. ... Respondents

(R-4 is impleaded as per order dated 28.11.2016 in W.M.P.No.35595 of 2016 in W.P.No.40969 of 2016)

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1st respondent in Appeal No. M.W.S.T.A.No.115/2016, dated 30.09.2016 whereby confirming the demand notice dated 05.07.2011 issued by the 2nd respondent and quash the same.

For Petitioner : No Appearance

For 1st Respondent : Mr.T.C.Gopalakrishnan

For 2nd & 3rd Respondents : Mr.M.Jothikumar
Standing Counsel

O R D E R

There is no representation on behalf of the petitioner. The petitioner has challenged the impugned order passed by the first respondent Taxation Appeal Tribunal against the order of attachment/ notice dated 05.07.2011 in old CMC.No.09/140/0666/000002 (New CMC.No.13/170/02329/000).

2. By the impugned order, the first respondent Taxation Appeal Tribunal has upheld the demand of water tax for the period commencing from first half of 2003 upto first half of 2011. The demand has been made based on the Annual Value of the property determined by the Corporation of Chennai under the provisions of the Chennai City Municipal Corporation Act, 1919 though a separate machinery has been prescribed under Section 35 (3) of the Chennai Metropolitan Water Supply and Sewerage Act, 1978.

3. The impugned order was sought to be defended by the learned counsel for the respondents on the ground that under Section 35(3) of the Chennai Metropolitan Water Supply and Sewerage Act, 1978, till such time as the annual valuation of land and buildings is determined under the Act, the annual value of land and buildings for the purpose of the Chennai Metropolitan Water Supply and Sewerage Act, 1978, shall be determined on the annual value as assessed by a Municipal Corporation, Municipality, Panchayat or other like Authority. In this case, it is the Corporation of Chennai.

4. The Chennai Metropolitan Water Supply and Sewerage Act, 1978 was introduced in the year 1978 after it was decided that a separate body to deal exclusively with the growing needs of the planned development and proper regulation in Chennai Metropolitan area was required. Therefore, the water and sewerage charges/taxes were hived off from the corporation of Chennai and given to the newly constituted Board, namely Chennai Metropolitan Water Supply and Sewerage Board under Chennai Metropolitan Water Supply and Sewerage Act, 1978.

5. Till date, the Chennai Metropolitan Water Supply and Sewerage Board has not exercised the jurisdiction under Section 35(1) for the purpose of levying tax under Section 34 of the

Chennai Metropolitan Water Supply and Sewerage Act, 1978. It is placing reliance on the assessment of the annual value determined by the Corporation of Chennai for the purpose of tax under Section 34 of the said Act. The provisions of Section 35 (3) of the Act was a stop gap arrangement at the time of inspection when the Board newly constituted in the year 1978 under the said Act. It cannot be perennially relied.

6. I therefore set aside the impugned order by directing the Authorities to exercise their power under Section 35 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978 to determine the annual value for the period in dispute and thereafter to issue a proper demand notice on the petitioner.

7. The officials of the respondents shall therefore inspect the property of the petitioner after prior notice to the petitioner and thereafter determine the value for the purpose of determination of tax payable by the petitioner under the provisions of the Chennai Metropolitan Water Supply and Sewerage Act, 1978. Determination of the value by the officers of the respondents will be binding on the petitioner.

8. Based on such determination of the value, the officers of the respondents shall thereafter issue appropriate demand notice for payment of tax by the petitioner. This exercise shall be carried out by the officers of the respondents within a period of 3 months from the date of receipt of a copy of this order.

9. The petitioner shall pay the tax in terms of such demand notice without further demur.

10. Accordingly, this Writ Petition stands disposed of. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

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Taxation Appeal Tribunal,
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4.The Commissioner,
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Ribbon Building, Chennai - 3.

+1cc to Mr.C.Prakasam, Advocate SR.NO..14687

AKM/31.03.21/4P-6C/

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