IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2021

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THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P. No.6708 of 2016
and
W.M.P.No.5948 of 2016

M.Umarajan,
S/o.K.Murthy ... Petitioner

-vs-

1.The Sub-Collector,
Chennai Metropolitan Water Supply
and Sewerage Board,
New Area-7, Office No.1,
Krishna Nagar,
Ambattur, Chennai - 600 037.

2.The Senior Accounts Officer,
Chennai Metropolitan Water Supply
and Sewerage Board,
New Area-7, Office No.1,
Krishna Nagar,
Ambattur, 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 on the files of the respondent in Attachment Notice dated 01.02.2016 and Demand Notice dated 08.02.2016 quash the same being illegal, invalid and contrary to the principle laid down by this Court.

For Petitioner : Mrs.Nidhin.K.Mookamkavil
For Respondents : Mr.G.Janakiranam
Standing Counsel

ORDER

The petitioner has challenged the levy of Water & Sewerage tax in attachment notice dated 01.02.2016 and demand notice 08.02.2016 in this Writ Petition.

2. The demand has been made for the period commencing from 1st half of 2013 to 2nd half of 2015. The value that has been adopted in the demand notice is Rs.4,60,780/- and, therefore, tax has been demanded at Rs.16,127/- on half yearly basis.

However, the demand was worked out as per the provisional notice under Form-6 on 21.09.2013, based on the annual value adopted for the property by the Corporation of Chennai vide the Assessment Order dated 18.03.2014. This annual value was challenged by the petitioner before the Taxation Appeals Tribunal in T.A.T. No.9 of 2014. The said Tribunal, by its order dated 26.08.2014, partly allowed the appeal filed by the petitioner and revised the annual value of the property.

3. On further appeal, before the City Civil Court, Chennai, as an Appellate Authority in M.T.A.No.6 of 2016, the petitioner's appeal was dismissed by the said Court in M.T.A.No.6 of 2016, vide its order dated 24.01.2019.

4. The property tax has been accordingly re-quantified. The annual value of the property has been re-quantified as Rs.2,26,648/-. However, for the impugned period covered by the demand notice and attachment notice for the 1st half of 2013 and 2nd half of 2015, the Water & Sewerage Tax has been determined on the annual value of Rs.4,60,780/-.

5. Considering the fact that the annual value of the property has been re-determined by the Corporation of Chennai in terms of the order passed in M.T.A.No.6 of 2016, the Water & Sewerage Tax to be paid by the petitioner also has to be re-quantified. It has to be re-quantified based on the annual value of the property at Rs.2,26,648/- unless an independent value is arrived under Section 35 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978.

6. The petitioner appears to have paid Water Tax at Rs.3,000/- per month from the 1st half of 2013 to 2nd half of 2015. Considering the fact that the annual value of the property had been re-determined by Rs.2,26,648/-, the Water & Sewerage Tax also has to be re-quantified by the respondents till such determination.

7. The learned counsel for the respondents has filed a chart as per which the Water Tax to be paid by the petitioner at annual value of Rs.2,26,648/- would be Rs.7,933/-.

8. From the above re-quantification, the petitioner is required to pay the difference in the tax of Rs.4,933/- for the period covered by the impugned demand notice/attachment notice and for the period thereafter.

9. Considering the fact that the petitioner has paid Water Tax at Rs.3,000/-, there shall be no levy of surcharge in the light of the fact that there were appeals filed by the

petitioner questioning the value determined by the Corporation and also in view of the pendency of the present writ petition.

10. Accordingly, I am allowing this writ petition by directing the respondents to issue fresh demand notice to the petitioner by adopting the annual value for the period at Rs.2,26,648/-.

11. The respondents shall issue a fresh demand notice for the period commencing from 1^{st} half of 2013 up to default within a period of 30 days from the date of receipt of a copy of this order.

12. On receipt of the said notice, the petitioner is directed to pay the difference of Water & Sewerage Tax within a period of 2 months thereafter.

13. This Writ Petition stands allowed. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:
1.The Sub-Collector,
Chennai Metropolitan Water Supply
and Sewerage Board,
New Area-7, Office No.1,
Krishna Nagar, Ambattur, Chennai - 600 037.

2.The Senior Accounts Officer,
Chennai Metropolitan Water Supply
and Sewerage Board,
New Area-7, Office No.1,
Krishna Nagar, Ambattur, Chennai - 600 037.

+1cc to Mr.N.Jayachander, Advocate, sr no.8753

+1cc to Mr.Janakiraman, Advocate, sr no.9065

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and
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AJB(CO)
RMP(17/03/2021)