IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.17297 of 2020 &
WMP. Nos.21441, 21433 & 21429 of 2020

M/s. Sri Devi Cinemas Pvt. Ltd.
Represented by its Managing Director
Mr.C.T.Ramanathan
No.212 Old No.870, Periyar E V R Salai
(Poonamalle High Road), Kilpauk,
Chennai-600010 …Petitioner

Vs.

1.The Commissioner,
Corporation of Greater Chennai
Rippon Buildings
Chennai, 600 003.

2.The Revenue Officer
Corporation of Greater Chennai,
Rippon Buildings
Chennai, 600 003.

3.The Assistant Revenue Officer
Zone No.8, Corporation of Greater Chennai,
No.36-B, II Cross Street, Pulla Avenue,
Shenoy Nagar, Chennai-600 030.

4.The Managing Director and Chairman
Chennai Metropolitan Water Supply and Sewerage Board,
1, Pumping Station Road,
Chindradripet, Chennai-600 002.

5.The Senior Accounts Officer,
Chennai Metropolitan Water Supply and Sewerage Board
No.227, 12th Main Road,
Anna Nagar, Chennai-600040. …Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorarified mandamus calling for the records in Z/8.R.O.C.No.1114/2020 dated 11.11.2020 on the files of the third respondent and quash the same since it is contrary to GO.M.S.No.150 Municipal Administratinon and Water Suppply (MA.IV) Department dated 19.11.2019 and direct the respondents, their servants representatives, an/or any one claiming through them from demanding property tax and water tax for the period of lock down from 17.03.2020 imposed by the Government and authorities as it is against their own procedure to levy the property tax for theaters and direct the respondents to refund property tax and water tax already collected from the petitoner for the period of lock down as per their represntations dated 17.08.2020 and 01.10.2020.

For Petitioner : Mr.V.Chandakanthan

For Respondents : Mr.K.Raja Srinivas
Standing Counsel for R1 to R3
Mr.Paneer Selvam
Standing Counsel for R4 & R5

O R D E R

The petitioner challenges a demand of property tax in respect of Sri Devi Cinemas owning three cinemas Sangam, Padmam and D-lounge located at Door No.212, Old No.870 Periyar E V R Salai (Poonamallee High Road), Kilpauk, Chennai-600010. According to the petitioner, it has been remitting the property tax regularly. While this is so, the impugned communication dated 11.11.2020 has been received calling upon it to remit the property tax for the period second half of 2019 to the second half of 2020 of a sum of Rs.21,24,156/- without any delay.

2. Mr.Raja Srinivas, learned Standing Counsel appearing for R1 to R3 would fairly state that the basis for arriving at the aforesaid demand has not been provided to the petitioner. A counter has been filed by the Corporation wherein at para 6 & 7 they state that the building under consideration falls under the category 'special type', and the assessment of the same would be in line with Council Resolution No.784 of 2018 dated 18.09.2018, which is based on receipts from sitting capacity of the theater and the tariff rate in regard to each class of seating. It is incumbent upon the authorities to issue a pre-assessment notice should there be any discrepancy noted in the amounts remitted by the petitioners, hear the petitioners and frame an assessment prior to raising a demand.

3. G.O.Ms.No.73 of 2018 had proposed an enhancement of rate of property tax at the rate of 50% and 100% in regard to residential and non-residential buildings respectively, but has been kept in abeyance by G.O.Ms.No.150 of 2019. Thus, no enhancement enhancement as per G.O.No.73 may be made till such

time action as contemplated under G.O.No.150 of 2019, is taken to streamline and re-vamp the existing rates in force. However, this does not mean that the corporation cannot re-assess property tax in cases where there is an apprehension or basis for escapement of tax, in line with Section 108 of the Chennai City Municipal Corporation Act, 1919 or make fresh assessment, at the rates prevailing prior to G.O.No.73 of 2018.

4. In this case, since there have been no valid proceedings initiated for revision of assessment in line with Section 108 , the impugned communication is set aside as demands are the of water tax and sewerage tax that are consequential. This writ petition is allowed and connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

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Chennai, 600 003.

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No.227, 12th Main Road,
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+1cc to Mr.V.Chandrakanthan, Advocate Sr.15888

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srg 31/03/2021