IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.22264 of 2021
and
WMP.No.23473 of 2021

Dr.R.Guruswamy

...Petitioner

Vs

1.The Chairman Cum Managing Director
Chennai Metropolitan Water Supply and Sewerage Board
No.1, Pumping Station Road,
Chennai - 600 002.

2.Assistant Engineer,
Zone 13, Metro Water Board,
No. 42, First Main Road,
Indra Nagar,
Chennai - 600 020.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings in CMC 13/171/00548/000 of the 2nd Respondent dated 16.09.2021 and quash the same and consequently direct the respondents to adhere to G.O.Ms.No.150 dated 19.11.2019 in so far as the Petitioner's property is concerned.

For Petitioner	:	Mr.M. Sriram
For Respondents	:	Mr. P.K.Panneer Selvam
	:	Standing Counsel for CMWSSB

ORDER

Captioned main writ petition has been filed assailing a notice dated 16.09.2021 bearing reference no.CMC 13/171/00548/000 issued by second respondent (hereinafter 'impugned notice' for the sake of convenience and clarity). Notwithstanding very many averments in the writ affidavit, notwithstanding several grounds raised in the writ affidavit, Mr.M.Sriram, learned counsel for writ petitioner submits that subject matter of captioned writ petition is, demand of water and sewerage tax and charges for 'writ petitioner's property at 824 (824/1L), Anna Salai, Saidapet, Chennai-600 035' (hereinafter 'said property' for the sake of convenience and clarity).

2. Learned counsel submits that originally property tax qua said property i.e., property tax levied by 'Chennai Corporation' (hereinafter 'MC' denoting 'Madras Corporation' for the sake of convenience and clarity) stood at Rs.81,575/- (at an annual value of Rs.6,57,854/-). This was subsequently revised to Rs.92,260/- (at an annual value of Rs.7,44,045/-). There was a further upward revision of property tax and the property tax was revised as Rs.1,66,190/- (at an annual value of Rs.13,40,225/-). However, this was rescinded owing to G.O.Ms.No.150 dated 19.11.2019 is learned writ petitioner counsel's say. This means that property tax qua said property as of now is Rs.92,260/- (at an annual value of Rs.7,44,045/-).

3. Notwithstanding the above position, impugned notice has been issued by second respondent by claiming water/sewerage tax (together with charges though) at a rate which is not in consonance with the annual value determined by MC for the purpose of levy of property tax. To be noted, this is the pivotal sheet anchor submission of learned counsel for writ petitioner.

4. Mr. P.K.Paneer Selvam, learned standing counsel for 'Chennai Metropolitan Water Supply and Sewerage Board' (hereinafter 'CMWSSB' for the sake of brevity) accepted notice on behalf of both the respondents.

5. Learned standing counsel for CMWSSB submitted on instructions that water and sewerage tax for said property is levied by resorting to Section 35 of 'The Chennai Metropolitan and Water Supply and Sewerage Act, 1978 (Tamil Nadu Act 28 of 1978)' (hereinafter 'CMWSSB Act' for the sake of convenience and clarity). This means that annual value of said property is based on the annual value arrived at by MC. Learned counsel also draws the attention of this Court to Sub-Section (3) of Section 34 of CMWSSB Act in this regard. More importantly, on instructions it is submitted that water and sewerage tax qua said property as of now is Rs.26,041/- per half year at an annual value of Rs.7,44,045/-. It is also submitted that this 3½ % of the annual value fixed by MC is adopted. This submission is recorded. This douses the first ground of attack raised by learned counsel for writ petitioner and it takes us to the impugned notice. In the impugned notice, the provision under which it has been issued has not been mentioned. When this Court wanted to know the provision, learned standing counsel for

CMWSSB drew the attention of this Court to Regulation No.24 of 'The Chennai Metropolitan Water Supply and Sewerage Board's Water Tax and Sewerage Tax (Levy and Collection) Regulations, 1991' (hereinafter 'CMWSSB Regulations' for the sake of convenience and clarity). To be noted, CMWSSB Regulations are Regulations made by CMWSSB with the previous sanction of Government in lieu of its Regulation making powers under CMWSSB Act. Regulation 24 reads as follows:

> '24. If any amount due on account of water tax and sewerage tax as determined under the Act and the regulations is not paid before the due date prescribed by the authorized authority, the Board shall issue a notice for cutting off water or sewer connection or both between any water or sewer works main or pipe line of the Board and the premises to which water is supplied or sewerage is provided giving a further grace time as decided by the competent authority.'

6. It prima facie comes to light that Regulation 24 may apply only in cases of water and sewerage tax dues in other words it prima facie appears that it may not apply to water and tax charges dues. Faced with this situation, learned standing counsel for CMWSSB quickly switched/shifted gears moved to the Parent Act i.e., CMWSSB Act and drew the attention of this Court to Section 49 (1) (i), which reads as follows:

> '49.Power to cut off water supply-(1) Notwithstanding anything contained in this Act, the authorised authority may cut off the connection between any water works of the Board and any premises to which water is supplied from such works or may turn off such supply in any of the following cases, namely:
>
> a) ....
> b) ....
> c) ....
> d) ....
> e) ....
> f) ....
> g) ....
> h) ....
> i) if the owner or occupier fails to pay within due time any money due to the Board under this Act, or any regulation or other instruments made thereunder;'

7. Be that as it may, owing to the trajectory this matter is now taking, this Court deems it appropriate to not to delve any further into this facet of the matter and leave these issues

open to be decided in another matter where a decision on these issues becomes imperative for deciding the legal tussle in the main matter. In the case on hand, in the impugned notice there is a reference to two sets of charges. To be precise, one talks about Rs.3,65,068/- and the other refers to Rs.25,856/- whereas there is no disputation or disagreement that there is only one connection qua said property. This error will suffice to set aside the impugned order, but the rights of CMWSSB to levy demand and collect water and sewerage tax as well as charges has to be preserved. For this purpose, it is to be noted that the stated position of CMWSSB that the present water/sewerage tax is Rs.26,041/- per half year computed at 3½ % of the annual value of Rs.7,44,045/- fixed by MC (for the purposes of levy of property tax) has already been recorded elsewhere supra in this order. It is open to CMWSSB to demand water/sewerage tax and charges in accordance with the meter in said property for the lone connection qua said property in accordance with law.

8. Captioned writ petition is disposed of in the aforesaid manner. Consequently WMP No.23473 of 2021 is disposed of as closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nst/kmi

To

1.The Chairman Cum Managing Director
Chennai Metropolitan Water Supply and Sewerage Board
No.1, Pumping Station Road,
Chennai - 600 002.

2.Assistant Engineer,
Zone 13, Metro Water Board,
No. 42, First Main Road,
Indra Nagar, Chennai - 600 020.

+1cc to Mr.M.Sriram, Advocate Sr No.54207

W.P.No.22264 of 2021
and
WMP.No.23473 of 2021

AKII (CO)
PR (24/11/2021)