IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.23652 OF 2021
&
W.M.P.NO.24900 OF 2021

(Through Video Conferencing)

M/s. C. Abdul Hakeem College of
Engineering & Technology,
Represented by its Chairman
S.Ziaddeen Ahmed,
Hakeem Nagar, Melvisharam
Ranipet District. ...Petitioner

Vs

1.The Commissioner,
Commissionerate of Municipal Administration
Ezhilagam Annexe Building
Chepauk, Chennai- 600 005.

2.The Commissioner,
Melvisharam Municipality,
Melvisharam, Ranipet District. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records in pursuant to property tax demand notices dated 09.07.2021 issued by the second respondent vide Na.Ka.No.A1/1086/2021 for the period from 2017-2018 to 2021-2022 and to quash the same and consequently direct the 2nd respondent to adjust Rs.42,20,505 demanded and received from the petitioner college prior to 2nd half of the year 2018 with the property tax payable by the petitioner college from 2nd half of the year 2018 after the amendment of section 83(1)(c) of Tamil Nadu District Municipalities Act 1920.

For Petitioner	:	Mr.T.P.Prabakaran
For R1	:	Mr.R.Siddharth Government Advocate
For R2	:	Mr.M.Kirubaharan

ORDER

The petitioner has filed this writ petition to quash the impugned communication dated 09.07.2021 of the second respondent and to consequently direct the respondents to refund the amount of Rs.42,20,505/- paid by the petitioner in the light of the amendment to the Tamil Nadu District Municipalities Act, 1920.

2. The case has a chequered history. The petitioner was issued with the tax demand for the period prior to 2018 and thus ended up paying a sum of Rs. 42,20,505/- for the period between 2009-10 and 2016-17. The issue was ultimately decided by this Court vide order dated 04.02.2021 in W.P.No.7332 of 2018. By the aforesaid order, this Court had concluded that the petitioner was indeed liable to pay tax only after the amendment to the aforesaid Act in the year 2018. Therefore, there was no justification in demanding the tax to the petitioner from the said period. The petitioner has now sought for demand for refund of the entire amount paid by the petitioner during the aforesaid period and to adjust the same towards tax liability for the period after 2018.

3. The impugned demand notice dated 09.07.2021 calls upon the petitioner to pay a Sum of Rs.27,36,740/-. Since the Act has been amended only with effect from 21.05.2018, the petitioner can be made liable to pay tax only for the period after the last quarter of 2017-18 to that extent the demand is not maintainable. As far as the prayer of the petitioner the refund of entire amount of Rs.42,20,505/- paid by the petitioner voluntarily for the period of 2009-10 up to 2016-17 is concerned, the petitioner is not entitled for refund of the entire amount, as such refund will be subject to limitation.

4. Considering the fact that, the petitioner has paid tax for the period preceding 2018, the petitioner will be entitled for refund of the amount paid for only three preceding years the amendment to the Act. In other words, tax paid after 25.01.2015 can be adjusted as against the tax liability for the period after the amendment. The respondents are therefore directed to quantify and adjust the amount refundable for the period of 3 preceding years prior to 25.01.2018 to the tax liability for the period after 25.01.2018. This exercise shall be carried out by the respondents within a period of four weeks from today. In case, the petitioner is required to pay any amount after such adjustment, respondents shall issue appropriate demand notice. In the event, of any excess amount remaining after adjustment in the hands of the respondents, the amount shall be adjusted against future tax liability of the petitioner.

5. Accordingly, this writ petition stands disposed of with the above observations. No costs. Consequently, connected writ miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

nst/jas

To

1.The Commissioner,
Commissionerate of Municipal Administration
Ezhilagam Annexe Building
Chepauk
Chennai- 600 005.

2.The Commissioner
Melvisharam Municipality
Melvisharam
Ranipet District.

+1cc to Mr.T.P.Prabakaran, Advocate SR.No.68493

W.P.No.23652 of 2021
&
W.M.P.No.24900 of 2021

SS(CO)
RVM(24/01/2022)