BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.09.2021**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.4056 of 2012

and

M.P.(MD)Nos.1 and 2 of 2012

The Correspondent,
Sacred Heart Matric. Higher Secondary School,
Padanthalumoodu,
Kanyakumari District. ... Petitioner

-Vs-

1.The Executive Officer,
Kaliyakkavilai Town Panchayat,
Kaliyakkavilai Vilavancode Taluk,
Kanyakumari District.

2.The President,
Kaliyakkavilai Town Panchayat,
Kaliyakkavilai Vilavancode Taluk,
Kanyakumari District. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Demand Notice issued by the 1st respondent Executive Officer vide proceedings Na.Ka.No.84/2012 dated 19.03.2012 illegally demanding property tax of Rs.12,40,820/- for the petitioner's school buildings retrospectively from 2007-2008 till 2011-2012, quash the same and further direct the respondents herein to forbear themselves from levying property tax on the petitioner's Sacred Heard Matric. Higher Secondary School owned and used by the petitioner for providing education to the students of the petitioner's school, which situate in Re-Survey No. 463/2 of Vilavancode Revenue Village, bearing Door Nos. 17/62-A, 17/62-B and 17/63, within the limits of the second respondent Town Panchayat.

For Petitioner : Mr.P.Muthuvel

For Respondents : Mr.R.Sureshkumar (R-1)
Government Advocate

No appearance (R-2)

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Demand Notice issued by the 1st respondent Executive Officer vide proceedings Na.Ka.No.84/2012 dated 19.03.2012 illegally demanding property tax of Rs.12,40,820/- for the petitioner's school buildings retrospectively from 2007-2008 till 2011-2012, quash the same and further direct the respondents herein to forbear themselves from levying property tax on the petitioner's Sacred Heard Matric. Higher Secondary School owned and used by the petitioner for providing education to the students of the petitioner's school, which situate in Re-Survey No. 463/2 of Vilavancode Revenue Village, bearing Door Nos. 17/62-A, 17/67-B and 17/63, within the limits of the second respondent Town Panchayat.

2.The petitioner, who is an educational institution seeks an exemption from the purview of the property tax, in view of Section 83 of the Tamil Nadu District Municipalities Act, 1920.

3.When this matter came up for hearing, the learned counsel appearing for the petitioner would submit that, the issue is covered by a number of decisions of this Court. One such order has been passed in **W.P.No.7754 of 2011, dated 09.02.2021**, in the matter of **Rank International School** vs. **the Executive Officer, Ariyampalayam Town Panchayat, Erode District.** In the said order, the learned Judge has made the following orders:

> *"4. The learned counsel for the petitioner submits that the issue is no longer res-integra and is covered by the decision of this Court vide order dated 26.07.2018 in* ***Kovai Medical Centre Research and Educational Trust, Rep.by its Authorised Signatory, Avinashi Road, Coimbatore District 641 014 vs. The Executive Officer, Kalapatti town Panchayat, Kalapatti, Coimbatore District.***
>
> *5. There, this Court placed reliance on the decision of the Madurai Bench of this Court in* ***A.Subramanian, Managing Trustee of Merit Educational Charitable Trust-cum-Principal of Merit Matriculation School, Ambasamudram, Tirunelveli District vs. The Executive Officer, III Grade Municipality, Ambasamudram, Tirunelveli District****, 2010(4) CTC 31, has quashed the demand of property tax .The operative portion of the said decision is reproduced below:*

"15. Further, having regard to the exemption granted under Section 83(1) of the Tamil Nadu District Municipalities Act, the question of aided or un-aided or minority or non-minority does not arise and any building used for educational purposes including hostels are exempted.

16. It was contended by the learned counsel appearing for the Respondent, Mr.M.Saravanakumar that only buildings used for educational purpose are exempted, even according to Section 83 (1)(c) of the Tamil Nadu District Municipalities Act and in this case apart from class rooms and hostels other buildings such as office of the educational institution can be assessed to Property Tax and exemption cannot be claimed for those buildings. The argument of the learned counsel appearing for the Respondent cannot be accepted, having regard to the wordings used Section 81(1)(c) of the Tamil Nadu District Municipalities Act. As per Section 83(1)(c) of the Tamil Nadu District Municipalities Act, buildings used for educational purpose and hence, hostels are given exemption. The phrase used "buildings for educational purpose", in my opinion, it includes not only class rooms, but also office rooms, which are essential and integral part of an educational institution and without an office, an educational institution cannot be run. Therefore, the buildings used for running office is also essential for imparting education and therefore, those buildings will also come under the category of educational purpose. Therefore, having regard to the specific provisions of Section 83(1)(c) of the Tamil Nadu District Municipalities Act, the buildings used for educational purposes of the Petitioner's institution are exempted from assessment of Property Tax and the Respondents cannot claim any levy for those buildings."

> *6. Heard the learned counsel for the petitioner. I have perused the impugned order and the decision of this Court in* ***Kovai Medical Centre Research and Educational Trust*** *case referred to supra and the decision of this Court in* ***A.Subramanian, Managing Trustee of Merit Educational Charitable Trust-cum-Principal of Merit Matriculation School, Ambasamudram, Tirunelveli District vs. The Executive Officer, III Grade Municipality, Ambasamudram, Tirunelveli District****, 2010(4) CTC 31, which has been extracted above.*
>
> *7. The issue is covered in favour of the petitioner in the two cases cited supra. Considering the same, I am inclined to allow this writ petition.*
>
> *8. Accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is also closed."*

4.Relying upon the said judgment, the learned counsel seeks indulgence of this Court to issue a similar order to the petitioner also.

5.The said legal position has not been controverted by the learned Government Advocate appearing for the first respondent and therefore, in view of the issue having been covered by a number of orders as has been cited supra, this Court is inclined to allow this Writ Petition. The order impugned in this writ petition is quashed and accordingly, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SM

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1.The Executive Officer,
Kaliyakkavilai Town Panchayat,
Kaliyakkavilai Vilavancode Taluk,
Kanyakumari District.

+1 CC to M/s.SPL.GP (SR-30860[F] dated 01/10/2021)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-30912[F] dated 01/10/2021)

W.P.(MD)No.4056 of 2012
Dated:
30.09.2021

RK/JGB(18/11/2021) 5P 4C