BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.06.2021
CORAM
THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.(MD)No.617 of 2018
and C.M.P.(MD) No.3398 of 2018

Swathi Matriculation School,
Represented by its Correspondent,
S.Karthikeyan,
Son of T.Sokkalingam,
(Aged about 57 years),
Plot No.36,
Survey No.212/2C, Salaimuthu Street,
Nehru Nagar,
Bye-pass Road,
Madurai - 625 010. ... Appellant/Petitioner

Vs.

1.The Madurai City Municipal Commissioner,
Represented by its Commissioner,
Tallakulam,
Madurai - 625 002.

2.The Assistant Commissioner,
The Madurai City Municipal Corporation,
Zone - 4,
Madurai. ... Respondents/Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD)No.2499 of 2017, dated 21.11.2017.

Prayer in WP(MD). 2499/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for records relating to the impugned Provisional Demand Notice dated 01/09/2016 in Property Tax Assessment No.388809 levying property tax of Rs.34,513/- per half year with effect from 01/04/2010 on the school building bearing Plot Nos. 36 to 39, Survey No.212 / 2C, Salaimuthu Street, Nehru Nagar, Bye-Pass Road, Madakulam Village, Madurai 625 010 and the demand of Rs.4,83,182/- for the period from 2010-2011 to 2016-2017 for 14 half years and quash the same and consequently forbearing the respondents from levying property tax on the petitioners school building in the event of the light of Section 122(c) of the Madurai City Municipal Corporation Act, 1971 and directing the respondents to refund the sum of Rs.1,38,052/- to the petitioner school.

For Appellant	:	Mr.T.R.Jeyapalam
For Respondents	:	Mr.R.Murali Standing Counsel

J U D G M E N T

(Judgment of the Court was delivered by T. S. SIVAGNANAM, J.)

Heard Mr.T.R.Jeyapalam, learned counsel for the appellant and Mr.R.Murali, learned Standing Counsel for respondent Corporation.

2.This Writ Appeal by the Writ Petitioner is directed against the order and direction issued in W.P.(MD) No.2499 of 2017, which was disposed by a common order dated 21.11.2017, along with batch of cases.

3.An identical issue was considered by us in W.P.(MD) No.1026 of 2018 dated 29.06.2021 in the case of ***Sri.Lalitha Vidyashram Matric School vs. The Commissioner,Tirunelveli Municipal Corporation, Tirunelveli*** and we dismissed the appeal filed by the School. The said judgment reads as follows:-

> "Heard Mr.Ragatheesh Kumar, learned counsel for the appellant and Mr.Aayiram K.Selvakumar, learned Standing Counsel for respondent Corporation.
>
> 2.This Writ Appeal by the Writ Petitioner is directed against the order and direction issued in W.P.(MD) No.15784 of 2016, which was disposed by a common order dated 21.11.2017, along with batch of cases.
>
> 3.We need not labour much to decide the issue on hand as the larger relief sought for by the other institution for issuance of a declaration in W.P.(MD) No.362 of 2019, to declare the Tamil Nadu Municipal Laws (Second Amendment) Act, 2018 as *ultra vires* and null and void, was rejected by the Hon'ble First Bench of this Court in ***the Correspondent, St.Joachim's Matriculation School v. The State of Tamil Nadu, represented by its Secretary, Department of Municipal Administration and Water Supply and three others***, wherein also the Tirunelveli Corporation was the second respondent, and the Writ petition was partly allowed in terms of the judgment of the Division Bench, dated 13.09.2019. So far

as retrospective application of the increase in property tax is concerned, demanding of property tax retrospectively from 01.10.2017 alone was set aside. That apart, the validity of the amended provision has been upheld in the case of ***Monfort Academy Matriculation Higher Secondary School v. The Secretary, Department of Municipal Administration and Water Supply Department, Chennai and others in W.P.No.18008 of 2018 etc., dated 13.09.2019.*** Therefore, the amended act having been upheld, the relief sought for by the petitioner to quash the recovery of property tax cannot be sustained in terms of the amended statute.

4.So far as the claim for grant of exemption is concerned, it goes without saying that no individual has vested right to seek for exemption and if there was a claim that they will fall within the relevant provisions of the Act, whereby they are entitled to grant of exemption, it is for them to independently seek for appropriate direction. In fact, the learned Single Bench has granted such liberty to seek exemption. However, the provisions of the amended act having been upheld, it may be a difficult task for the appellant to claim exemption. Moreover, they are fee levying institution and not engaged in charitable purposes. Thus, we are of the view that the impugned order would not call for any interference.

5.Accordingly, the Writ Appeal is dismissed in view of the order aforesaid. No costs. Consequently, connected Miscellaneous Petition is closed. ”

4.In the light of the above order, the writ petition stand dismissed with similar observations made in W.A.(MD).No.1026 of 2018. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

+1 CC to MR.R.MURALI, Advocate (SR-20657[F] dated 30/06/2021)

+1 CC to MR.T.R.JEYAPALAM, Advocate (SR-20659[F] dated 30/06/2021)

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