IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.09.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.21721 of 2014
and M.P.Nos.1 and 2 of 2014

1. K.S.Mohammed Hussain
2. Hasan Faiz Ahmed
3. Tmt.Aysath Mafeetha
4. Md.Abdul Khader
5. Hasoon Muzammal
6. Tmt.Aysath Shamila

... Petitioners

Vs

1. Managing Director,
   Chennai Metro Water Supply and Sewerage Board
   No.1, Pumping Station Road,
   Chintadripet, Chennai – 600 002.

2. Depot Engineer,
   Depot No.57,
   Chennai Metro Water Supply and Sewerage Board
   No.42, Govindappa Naicken Street, Chennai – 600 001.

3. Division Engineer – 5,
   Chennai Metro Water Supply and Sewerage Board
   No.1, MG Salai, Anna Park,
   Chennai – 600 021.

4. The Corporation of Chennai
   represented by the Commissioner,
   Ripon Building, Chennai – 600 003.

(R4 suo motu impleaded vide order dated 20.01.2021)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 2nd respondent in CMC No.0739/00 dated 04.08.2014 demanding enhanced water and sewerage tax and quash the same as illegal and beyond the jurisdiction and authority of law and forbear the respondents from disconnection of water/sewer service for Door No.52, Netaji Subash Chandra Bose Road.

For Petitioner	: Mr.Prithvi Chopda for Mr.T.Paramodkumar Chopda
For Respondents	: Dr.N.Paul Sunder Singh Standing Counsel – R1 to R3 Mr.P.T.Ramkumar Standing Counsel - R4

ORDER

Read this order in conjunction with orders dated 29.08.2022 and 15.09.2022, that read as follows:

29.08.2022:

This writ petition was disposed on 24.08.2022 on the premise that there has been no compliance by the Corporation of Chennai to effect a proper assessment of the property. After orders were passed a mention was made by the learned Standing Counsel to the effect that, in fact, an assessment has been made on the property.

2. Hence, order dated 24.08.2022 is recalled. Let the matter be listed afresh on 15.09.2022 for denovo hearing.

<u>15.09.2022:</u>

After extracting order dated 29.08.2022, the order states,

. . .

2.Learned Standing Counsel for the Corporation would submit that an assessment has been made on 11.05.2021, fixing the half yearly tax @ Rs.30,785/-with effect from the second half of 1999-2000. A copy of the assessment has been served upon the petitioner and the petitioner accedes to the same.

3.Thus, the water tax and sewerage tax assessment has to be made on the basis of the aforesaid property tax assessment. Let the needful be done on or before 29.09.2022.

4.Incidentally, it is brought to the notice of the Court that R2 has, in the past, being levying surcharge in addition to water charges/taxes. This is impermissible, in light of Regulation 10 of the Chennai Metropolitan Water Supply and Sewerage Board's Water Tax and Sewerage Tax (Levy and Collection) Regulations, 1991 that reads as follows:

> "*The payment of water and sewerage tax shall be made as specified in the demand notice, water and sewerage tax card or as intimated by the Board from time to time.*

(i). The Board shall levy surcharge at the rates specified from time to time for the belated payment of water and sewerage tax. Surcharge is being levied at 2% per month on recurring basis w.e.f.01.10.1997 up to 31.03.2003 and 1.25 % p.m. From 01.04.2003 onward. In respect of appeal preferred by the assesses for revision of Annual Value, the allowable time for payment at revised rate would be 30 days from the date of receipt of order or from the date of intimation from the Board whichever is earlier."

5.A reading of the above Regulation makes it clear that the question of surcharge arises only pursuant to the determination of water tax/surcharges. Such determination is itself to be based on the annual value as determined by the Chennai Corporation and as ordered now. The question of levy of surcharge will arise only after the present exercise is carried out.

6.List on 30.09.2022 for production of orders.

2. Today status report dated 28.09.2022 has been filed by R3 conveying to the Court that the water and sewerage tax demands have been revised based on the assessment of the property pursuant to this Court's order dated 08.04.2021. As recorded at paragraph 2 of order dated 15.09.2022, the petitioner has acceded to the property tax assessment order.

3. With the revision of the water and sewerage tax demands based on the re-assessment of the property tax, the grievance of the petitioners survives no longer. A copy of the assessment order is served upon the learned counsel for the petitioners in Court for onward transmission to the petitioners to enable

them to challenge the same by way of statutory appeal, if they are aggrieved, in accordance with law.

4. As regards the surcharge, the respondents are seen to have waived the surcharge from the second half of 1999-2000 onwards and levied surcharge only for the periodfirst half of 1995-96 to first half of 1999-2000, the demands for which period constitute pending arrears. No infirmity is made out in this regard.

5. In light of the narration as aforesaid, this Writ Petition is closed. No costs. Connected Miscellaneous Petitions are also closed.

29.09.2022

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Index : Yes / No
Speaking Order
To

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Dr.ANITA SUMANTH,J.

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