BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.07.2022**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).Nos.13798, 13799 & 13800 of 2012
and
M.P(MD)Nos.1, 1 & 1 of 2012

In W.P(MD)No.13798 of 2012
S.Veerasamy Chettiar Educational & Charitable Trust,
Represented by its Managing Trustee Dr.V.Murugiah,
22, Telungar Street,
Puliangudi-627 855,
Tirunelveli District. ... Petitioner

Vs.

1.The Assistant Director,
Municipal Finance Auditing, Tirunelveli,
Tirunelveli District.

2.The Commissioner,
Puliangudi Municipality,
Puliangudi, Tirunelveli District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the second respondent in special Notices in No.32221, dated 25.10.2012 relating to the proceedings of assessment of tax in respect of Door No.6, Sankarankovil Road, Puliangudi, Tirunelveli District and quash the same.

In W.P(MD)No.13799 of 2012
S.Veerasamy Chettiar Educational & Charitable Trust,
Represented by its Managing Trustee Dr.V.Murugiah,
22, Telungar Street,
Puliangudi-627 855,
Tirunelveli District. ... Petitioner

Vs.

1.The Assistant Director,
Municipal Finance Auditing, Tirunelveli,
Tirunelveli District.

2.The Commissioner,
Puliangudi Municipality,
Puliangudi, Tirunelveli District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the second respondent in special Notices in No.32222, dated 25.10.2012 relating to the proceedings of assessment of tax in respect of Door No.7, Sankarankovil Road, Puliangudi, Tirunelveli District and quash the same.

In W.P(MD)No.13800 of 2012
S.Veerasamy Chettiar Educational & Charitable Trust,
Represented by its Managing Trustee Dr.V.Murugiah,
22, Telungar Street,
Puliangudi-627 855,
Tirunelveli District. ... Petitioner

Vs.

1.The Assistant Director,
Municipal Finance Auditing, Tirunelveli,
Tirunelveli District.

2.The Commissioner,
Puliangudi Municipality,
Puliangudi, Tirunelveli District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the second respondent in special Notices in No.32223, dated 25.10.2012 relating to the proceedings of assessment of tax in respect of Door No.8, Sankarankovil Road, Puliangudi, Tirunelveli District and quash the same.

In All W.P.s

For Petitioner	: M/s.T.Pon Ramkumar
For R-1	: Mr.S.Shanmugavel Additional Government Pleader
For R-2	: No appearance

COMMON ORDER

The present Writ Petitions have been filed by the Educational and Charitable Trust, challenging three notices issued by the Commissioner of Puliangudi Municipality, demanding property tax for the buildings constructed by the petitioner's Educational Trust.

2. All the impugned orders are dated 25.10.2012. The first impugned order attempts to collect property tax for the newly constructed Boys Hostel covering period between 2005 and 2013. The

second impugned order has been passed for collecting property tax for the building constructed for the purpose of Hostel for the period covering 2005-2013. The third demand notice is attempting to recover property tax for the period covering 2005-2013 for the construction of a new kitchen connected with the Hostel.

3. All the three impugned demand notices have been challenged by the writ petitioner's Educational Trust, on the ground that, the Educational Institutions are completely exempt from the purview of payment of property tax. However, during the pendency of the writ petitions, the Government of Tamil Nadu have chosen to amend the Tamil Nadu Municipalities Act by way of Tamil Nadu Municipal laws (Second amendment) Act, 2018. Hereafter, called as Tamil Nadu Act 6 of 2018. This amendment Act was notified in the Tamil Nadu gazette on 25.01.2018.

4. The said amendment Act was challenged by way of batch of writ petitions. Hon'ble Division Bench of Principal Seat of this Court by an order, dated 13.09.2019 in W.P.No.18008 of 2018 along with other

batch of cases, dismissed the writ petitions, upholding the constitutional validity of Tamil Nadu Act 6 of 2018.

5. The same issue came up before the Hon'ble First Bench in W.P(MD)No.362 of 2019. By way of an order, dated 25.02.2020, the Hon'ble First Bench has held that Tamil Nadu Act 6 of 2019 cannot be implemented with retrospective effect. The Hon'ble First Bench has also referred to a circular, Roc.No.7234/2014/R1, dated 25.05.2018, issued by the Commissioner of Municipal Administration, Chennai. As per the said circular, the assessments, as per the amended Act, have to be made only from 01.04.2018. Based upon the said clarificatory circular, the Hon'ble First Bench has partly allowed the writ petitions setting aside the demand made prior to 01.04.2018.

6. The Hon'ble Division Bench had occasion to deal with a similar matter in W.P(MD)No.7307 of 2019, dated 25.02.2020. In the said writ petition, the Hon'ble Division Bench has held that, incase, any objections are being raised by the concerned assesses, a reasonable opportunity shall be afforded to them for putting forth their objections before issuing

the impugned demand.

7. In the light of the above said judgments, now let us consider the three impugned demand notices issued by the second respondent Municipality. Admittedly, all the three impugned demand notices are before 01.04.2018. In all the three demand notices, property tax has been demanded from the Educational Institution for the period covering between 2005 and 2013 which is much prior to the amending Act, namely, Tamil Nadu Act 6 of 2018. The Hon'ble First Bench has categorically held in its order, dated 25.02.2020 in W.P(MD)No.362 of 2019 that Tamil Nadu Act 6 of 2018 cannot be implemented with retrospective effect.

8. In the light of the above said First Bench judgment, the impugned orders cannot survive, the scrutiny of law and all the three impugned orders are set aside. The second respondent Municipality is at liberty to issue a fresh demand notice from 01.04.2018 onwards, after giving due opportunity to the petitioner Educational Institution.

9. With the above said observations, all the three Writ Petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

18.07.2022

Index : Yes / No
Internet : Yes / No
btr

To

1.The Assistant Director,
Municipal Finance Auditing, Tirunelveli,
Tirunelveli District.

2.The Commissioner,
Puliangudi Municipality,
Puliangudi, Tirunelveli District.

R.VIJAYAKUMAR, J.

btr

Order made in
W.P.(MD).Nos.13798, 13799 & 13800 of 2012

18.07.2022