BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.08.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20660 of 2013
and M.P(MD).Nos.2 and 3 of 2013

M/s.S.K.N.Boarding and Lodging (P) Ltd.,
rep., by its Managing Director,
N.Selvaraj ... Petitioner

Vs.

The Commissioner,
Palani Municipality, Palani ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent's notice dated 07.11.2013 made in assessment No.13205 of the petitioners premises situated in Ward No.28, Door No.45, Dindigul Main Road, Palani and consequential notice dated Nil affixed in the building for the above said assessment and quash the same and further direct the respondent herein to restore the water connection to the premises situated in Ward No.28, Door No.45, Dindigul Main Road, Palani.

For Petitioner : Mr.Shathurthi Raja
For Respondent : Mr.D.Sasikumar
Additional Government Pleader

ORDER

The present writ petition has been filed challenging the enhancement of property tax of the petitioner's 2nd floor of the lodging house from Rs.17,998/- to Rs.30,597/-.

2.According to the learned counsel for the petitioner, the property tax was collected by the respondent municipality only at the rate of Rs.17,998/- up to the second half of 2007-2008, but from the first half of 2008-2009, they have started demanding at the rate of Rs.30,597/- for each half year. Since the assessment has been made without any reason, the present writ petition has been filed challenging the said demand.

3.Per contra, the learned counsel appearing for the respondent municipality had contended that the the general revision was effected w.e.f. 01.04.2008, pursuant to the powers granted to the Government under Section 81-A of the Tamil Nadu District Municipality Act (hereinafter referred to as 'Act'). In exercise of the said powers, the Government of Tamil Nadu has issued G.O.Ms.No.123, Municipal Administration and Water Supply Department, dated 12.11.2007 permitting the local bodies to revise the property tax not exceeding 150% for commercial buildings. In the present case, the petitioner's building being a commercial building the respondent municipality in its discretion has enhanced the property tax of the petitioner by 100%. Hence, According to the counsel for the respondent, when the respondent municipality enhances the property tax pursuant to the directions issued by the Government as contemplated under Section 81-A of the Act, the respondent will not have any discretion not to comply with such direction of the Government. Hence, he prayed for dismissal.

4.I carefully considered the submissions made on either side. I have perused the Government Order, dated 12.11.2007 in G.O.Ms.123, Municipal Administration and Water Supply Department. As per the said Government Order, the local bodies have been permitted to enhance the property tax w.e.f. 01.04.2008 with a maximum limit of 150% as for as the commercial buildings are concerned. Only as per the direction of the Government, the respondent municipality has enhanced the property tax. Hence, there is no scope for interference in the present writ petition, unless the said Government Order is under challenge.

5.However, the learned counsel for the petitioner had submitted that the petitioner had given a representation to the respondent municipality on 12.12.2013, to the effect that, the revision has been effected without considering the fact that the lodging house was vacant from the year 2002 onwards. He had further contended that the second floor was not let out from the year 2002 onwards. The said fact has not been considered and the revision in property tax has been effected.

6.From the contentions of the writ petitioner, it could be seen that it is an individual case of the writ petitioner and it has nothing to do that the general provision effected by the respondent municipality. It is for the municipality to decide on a case to case basis whether the petitioner's property was kept vacant for a particular period or not. Hence, the respondent is directed to consider the representation of the petitioner, dated 12.12.2013, which has been acknowledged by the respondent, within a period of twelve(12) weeks from the date of receipt of a copy of this order.

7.With the aforesaid observations, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

18.08.2022

Index : Yes / No
Internet : Yes / No
Rmk

To

The Commissioner,
Palani Municipality, Palani

R.VIJAYAKUMAR ,J.

Rmk

Order made in
W.P(MD)No.20660 of 2013

Dated:
18.08.2022