IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2023

CORAM :

The HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.723 & 8141 of 2022
and W.M.P.Nos. 789, 790, 8130 & 8132 of 2022

Sri Andhra Kala Sravanthi
Rep. by its General Secretary,
Mr.J.M.Naidu / Mr.J.Srinivas,
No.170/1, 200 Feet Ring Road,
Annai Nagar, Korattur, Chennai - 76. .. Petitioner
in both writ petitions

vs

1.The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai - 03.

2.The Regional Officer, Zone - VII,
Greater Chennai Corporation,
Ambattur, Chennai - 53.

3.The Assistant Revenue Officer,
Revenue Department,
Greater Chennai Corporation,
Zone VII (Ambattur) CTH Road,
Chennai - 53.

4.The Chairman
Chennai Metropolitan Water Supply & Sewerage Board,
No.01, Pumping Station Road,
Chintadripet, Chennai -600 002.

5.The Senior Accounts Officer,
Chennai Metropolitan Water Supply & Sewerage Board,
Area 7, No.01, T.S.Krishna Nagar,
Ambattur, Chennai -600 037. .. Respondents
in both writ petitions

Prayer in W.P.No.723 of 2022: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the impugned letter cum Final Assessment Order dated 16.11.2021 bearing Z.O.7/RDCNo.A1/1144/2021 of the 3rd respondent and quash the same and then direct the 3rd respondent to pass a fresh speaking Assessment Order for the Community Hall of the petitioner society situated at No.170/1, 200 Feet Ring Road, Annai Nagar, Korattur, Chennai – 600 076, after providing a reasonable opportunity of personal hearing within a stipulated time as prescribed by this Court.

Prayer in W.P.No.8141 of 2022: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the impugned notice 10: Final Assessment Order dated 17.09.2018 bearing No: 10/18-19/115201 of the 1st respondent to pass a fresh Speaking Assessment Order, after considering & disposing the petitioner society's application for exemption from payment of property tax dated 28.02.2022, for the Community Hall of the petitioner society situated at No.170/1, 200 Feet Ring Road, Annai Nagar, Korattur, Chennai – 600 076, by following principles of natural justice and within a stipulated time as prescribed by this Court.

For Petitioner	:	Mr.S.R.Sankareshwaran (in both writ petitions)
For Respondents	:	Ms.K.Aswini Devi Standing Counsel for R1 to R3 Dr.N.Paul Sunder Singh Standing Counsel for R4, R5 (in both writ petitions)

COMMON ORDER

The petitioner is Sri Andhra Kala Sravanthi, and challenges order dated 16.11.2021 levying property tax under the provisions of the Chennai City Municipal Corporation Act, 1919 (1919 Act) and Water and Sewerage Tax under the provisions of the Chennai Metropolitan Water Supply and Sewerage Act, 1978 and 17.09.2018 being a notice in Form 10 being a final assessment order.

2. This very petitioner had filed W.P.No.14757 of 2023 that had been disposed after hearing the parties yesterday i.e., 05.06.2023, and the following order was passed:-

> *"Read this order in conjunction with and in continuation of order dated 02.06.2023. That reads as follows:-*
>
> > *"The short prayer of the petitioner, a registered society is for a mandamus directing the first respondent / the Commissioner of Greater Chennai Corporation to dispose its representation dated 28.02.2022.*
> >
> > *2. Mr.S.T.Bharath Gowtham, learned counsel, for Ms.Aswini Devi, learned Standing Counsel, who accepts notice for the respondents, tentatively states that, the petitioner's representation as aforesaid has been disposed. He seeks a days time to produce the copy of the order*

disposing the representation.

3. List on 05.06.2023 at the end of admission list.

4. Let a copy of the order disposing the representation, if any, be supplied to learned counsel for the petitioner in advance."

2. Today, Ms.Aswini Devi, learned panel counsel for the Commissioner / Greater Chennai Corporation, circulates an order passed on 18.03.2022 which she states disposes the representation dated 28.02.2022. This is not correct for the reason that the order dated 18.03.2022 only considers the request of the petitioner for waiver of property tax payments.

3. Representation dated 28.02.2022 seeks exemption in respect of Sri Andhra Kala Sravanthi Association and hence there has been no adjudication on the request for exemption thus far.

4. In light of the acquiescence by the panel counsel that representation dated 28.02.2022 has indeed been received by R1, mandamus is issued to R1 to dispose the representation. For this purpose, the petitioner will appear through authorised representative or through official on Thursday i.e., 15.06.2023 without expecting any further notice in this regard. Let petitioner be heard, request for exemption considered in accordance with law and the order passed either accepting or rejecting the request as R1 may deem fit within a period of four weeks from date of personal hearing i.e., on or before 15.07.2023 and duly communicated to the petitioner.

5. Writ petition stands disposed with the above directions. No costs."

3. Undoubtedly the necessity to assess the petitioner would depend on the view to be taken by the Commissioner on the exemption application. That apart, the petitioner has also, in the

present two writ petitions challenged the veracity of those orders on other grounds as well stating that no notice was issued prior to passing order of re-assessment under Section 137B of the Act impugned in W.P.No.8141 of 2022.

4. No counter has been filed by the Greater Chennai Corporation in this writ petition notwithstanding that notice was issued as taken as 04.04.2022 by the Standing Counsel for the Greater Chennai Corporation. Learned Standing Counsel, who now appears for the Greater Chennai Corporation, accedes to the position however, that at present, notices are not available to disprove this submission of the petitioner.

5. Hence and for the above reasons, impugned orders dated 16.11.2021 & 17.09.2018 calling upon the petitioner to remit arrears of property tax upto second half of 2021 – 2022 are set aside. The issue of arrears of tax shall be looked into by R1 on 15.06.2023 in the presence and with co-operation of the petitioner, and an order shall be passed de novo, simultaneous with the order of exemption. These writ petitions stand disposed in terms of this order.

6. The direction contained in order dated 05.06.2023 in W.P.No.14757 of 2023 permitting the petitioner to appear before R1 on 15.06.2023 is reiterated here. The petitioner shall appear on 15.06.2023 without anticipating any further notice. It is made clear that if the petitioner does not appear on 15.06.2023, liberty granted both under orders dated 05.06.2023 and 06.06.2023 will stand withdrawn without further reference to the petitioner and the impugned orders will stand confirmed.

7. No costs. Connected miscellaneous petitions are closed.

06.06.2023

Index:Yes/No
Neutral Citation:Yes
ssm

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DR. ANITA SUMANTH,J.

ssm

W.P.Nos.723 & 8141 of 2022

06.06.2023