IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.8888 of 2021
&
W.M.P.Nos.9424 and 9428 of 2021

Shrimathi Devkunvar Nanalal
Bhatt Vaishnav College for Women
(Autonomous),
Represented by its Secretary,
Chrompet,
Chennai – 600 044. ... Petitioner

Vs.

Pallavaram Municipality,
Represented by its Commissioner,
Chennai – 600 043. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the records of the Respondent in respect of the impugned notices dated 13.08.2020, 09.10.2020 and notice dated 29.12.2020 in R.C.No.2864/2020/A1, and the attendant proceedings dated 11.02.2021 in R.C.No.2864/2020/A1 of the Respondent confirming the demand raised in impugned notice dated 13.08.2020 for assessment No.007/025/01039 of the petitioner college and quash the same and direct the respondent to rehear the Revision Petition dated 31.10.2020, acknowledged on 02.11.2020 by the respondent as per the order dated 06.10.2020 of this Hon'ble Court in W.P.No.9773 of 2020 in accordance with law after affording an opportunity of hearing to the petitioner in light of the law laid down in the order dated 08.08.2019 in W.P.No.23145 of 2019.

For Petitioner : Mr.K.Shakespeare

For Respondent : Mr.P.Srinivas
Standing Counsel

ORDER

This is the second round of litigation before this Court. Earlier, demand notices were issued by the respondents to the petitioner. These demand notices were quashed vide order dated 06.10.2020 in W.P.No.9773 of 2020 by a learned Single Bench of this Court.

2. Pursuant to the aforesaid order, the respondents initiated a fresh proceedings by issuing notice under the Provisions of the Rule 12 of the Tamil Nadu District Municipalities Act, 1920 (Schedule IV Part-I-Taxation Rules).

3. Meanwhile, petitioner had filed a Revision Petition before the Executive Authority of Pallavaram Municipality under the provisions of the aforesaid Act and the Rules which is now culminated in the order on 31.10.2020 and attendant proceeding dated 11.02.2021 in R.C.No.2864/2020/A1 of the Respondent confirming the demand raised in impugned notice dated 13.08.2020 for assessment No.007/025/01039 for the petitioner's college.

4. The petitioner was issued with the notice on 23.11.2020, followed by another notice dated 29.12.2020 and thereafter the impugned demand notice dated 11.02.2021, enclosing a copy of the calculation of arrears of tax payable by the petitioner which is dated 22.02.2021.

5. The specific case of the petitioner is that the notice dated 29.12.2020, was received by the petitioner only on 20.01.2021 and the impugned order was passed on 11.02.2021 enclosing a Memo dated 22.02.2021 is liable to be quashed.

6. Admittedly, the petitioner did not get adequate opportunity to respond to the notice dated 29.12.2020, bearing reference: ந.க.எண்.2864/2020/அ1.

7. Per contra, Mr.P.Srinivas, learned Standing Counsel for the respondent brought attention to paragraph 13 of the counter affidavit. The content of the same is extracted below:-

> *"The averment in para 11 are denied. After the receipt of the said notice dated 29.12.2020, the petitioner had not submitted any details as required by this Respondent. In fact, till date, the petitioner has not produced the entire approved Building plans of the College building. The petitioner has produced only the Approved Plans for the Grounds plus two floors for one of the buildings that is newly constructed. The said building is yet to be assessed. In fact the present proceedings for assessment of the property tax relates to the existing building of the petitioner that is not shown to have any Building approval as per the Statutes. Even assuming without admitting that the notice dated 29.12.2020 was received by the Petitioner on 20.01.2021, the petitioner ought to have submitted its response in 7 days. Admittedly the petitioner ought to have submitted its response in 7 days. Admittedly the petitioner has submitted a simple letter dated 17.02.2021 that was received by this Respondent on 24.02.2021. The averments of the Petitioner in para 12 are denied. The petitioner is seeking to take advantage*

> *of the fact that the date of inspection and the presence of its representation have not been mentioned in the notice dated 29.12.2020. This shows that the petitioner is trying to cast aspersions and seeking to wriggle out of its liabilities to pay the property tax."*

8. It is submitted that the petitioner has not given full particulars of the buildings that have been constructed with and without approval. It is submitted that many of the buildings are unauthorized and have been constructed without any approval from the respondent.

9. That apart, it is submitted that the petitioner has an alternate remedy by way of an appeal before the provisions of the Income Tax Appellate Tribunal Act. It is therefore submitted that the writ petition is liable to be dismissed.

10. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Standing Counsel for the respondent.

11. A perusal of the documents enclosed along with the writ petition and the content of the counter affidavit filed by the respondent indicates that the impugned order has been passed mechanically without giving the petitioner an adequate opportunity to respond to a notice dated 29.12.2020.

12. That apart, the hearing is supposed to have been taken place on 16.12.2020, to which the petitioner has also filed written submission.

13. The petitioner has also given the details of the buildings where aided courses are being conducted and where some of the few self-financing courses are also being held.

14. The order has not clearly brought out as to which are the areas where the respective courses are being conducted, which are outside the purview of the exemptions and which are liable to be taxed.

15. Under these circumstances, the impugned order passed by the respondent is liable to be set aside and the case is remitted back to the respondent to pass a fresh order on merits and in accordance with law. There shall be a Joint Inspection by the respondent in the presence of the responsible officer/personnel of the petitioner. The respondent shall issue a notice for joint inspection and thereafter proceed to pass a fresh order after giving the petitioner an opportunity to respond to the same. This exercise

shall be carried out by the respondent within a period of three (3) months from the date of receipt of a copy of this order.

16. The writ petition stands disposed of in terms of the above observations and directions. No cost. Consequently connected miscellaneous petitions are closed.

17. At this stage informed that the Pallavaram Municipalities has merged with the Tambaram City Municipal Corporation and therefore the name of the respondent may be altered to Tambaram City Municipal Corporation. The above submission stands recorded. Accordingly, name of the Pallavaram Municipalities in the cause title shall stand substituted with Tambaram City Municipal Corporation.

04.07.2023

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation :Yes/No
rgm

Note: Registry is directed to carryout the necessary correction in the cause title.

C.SARAVANAN, J.

rgm

To

Pallavaram Municipality,
Represented by its Commissioner,
Chennai – 600 043.

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&
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