**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 31.01.2023

CORAM

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.P.No.7302 of 2014

M. Vairavasamy ... Petitioner

Vs.

1.The Tahsildar,
Chennai Metropolitan Water Supply and Sewerage Board,
Zone No.X, No.227, near 12th main road,
II Avenue, Anna Nagar,
Chennai – 600 040.

2.The Area Engineer – X,
Chennai Metropolitan Water Supply and Sewerage Board,
T.Nagar, Chennai – 600 017. ... Respondents

**Prayer:** Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the first respondent in their distraint Notice dated 15.02.2014 followed by the letter dated 01.03.2014 along with a demand notice dated 01.03.2014 issued by the 2nd respondent and quash the same as illegal and utravires.

For Petitioner : Mr. Fazil Mohammed

For Respondents : Mr. Jerry V.V. Sundar

**O R D E R**

The Writ Petition has been filed challenging the distraint notice dated 15.02.2014 and the consequential notice dated 01.03.2014 along with demand notice issued by the corporation on 01.03.2014, demanding water and sewerage tax.

2. It is the contention of the learned counsel for the petitioner that the demand notice was issued without any basis and there is no water connection in the petitioner's premises, therefore, the same has to be set aside.

3. Though, several grounds have been raised, it is relevant to note that in an earlier occasion in W.P.No.2001 of 2011 filed by the petitioner, challenging the similar demand raised, this Court vide common order dated 24.01.2013, 29.01.2013 and 31.01.2013, disposed the writ petitions as follows:

> *"4. The Appellate Forum, namely, Taxation Appeal Tribunal has been notified in terms of Section 1292 of the Taxation Rules under Schedule IV of the Chennai City Municipal Corporation Act, 1919 insofar as corporation tax is concerned and it is functioning.*
>
> *5. It is now brought to the attention of this Court that in respect of demand for water tax, sewerage tax and water supply and sewerage service charges, the Government has notified an appellate forum. The government has issued a*

*G.O.(Ms) No.123 Municipal Administration and Water Supply (Metro Water) Department dated 21.12.2012, in this regard. The following Notification has been issued:*

> *"In exercise of the powers conferred by sub-section (1) of section 70 of the Chennai (Tamil Nadu Act 28 of 1978), the Governor of Tamil Nadu that Act and directs that the Taxation Appeal Tribunal constituted under sub-rule (I) of Rule 12 of the Taxation Rules in Schedule IV to the Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919) shall act as the Tribunal so constituted under the said Tamil Nadu Act 28 of 1978 also."*

*6. In view of the above notification, all cases relating to water tax, sewerage tax, water supply and sewerage service charges will have to be decided by the appellate forum notified as above. There is now an effective alternate remedy.*

*7. In view of the above, all the writ petitions filed challenging the demand notice, in respect of water tax, sewerage tax and water supply and sewerage service charges levied by Chennai Metro Water Supply and Sewerage Board under the Tamil Nadu Act 28 of 1978 have to be decided by the Taxation Appeal Tribunal as above. Hence, in view of the alternate remedy available, the writ petitions will have to be disposed of giving the petitioners an opportunity to pursue the alternate remedy."*

It appears that the petitioner has filed an appeal before the Taxation Appellate Committee, which came to be dismissed later. Thereafter, the demand has been issued once again. Once again, the same has been challenged in the writ petition. As earlier held in the writ petition, there is an effective alternative remedy available by way of statutory appeal and the writ petition cannot be maintained.

4. In such view of the matter, the Writ Petition is disposed of, with liberty to the petitioner to file an appeal before the Taxation Appellate Committee. The pendency of the writ petition can be taken note off by the Taxation Appellate Committee, while calculating the period of limitation for condonation of delay. Accordingly, the petitioner is directed to file an appeal within a period of 15 days from the date of receipt of copy of this order and if an appeal is filed, the Taxation Appellate Committee shall decide the same, on its own merits, within a period of three months. No costs.

**31.01.2023**

Index :Yes/No
Speaking Order / Non-Speaking Order

AT

To

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**N.SATHISH KUMAR, J.**

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