IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: **02.01.2023**

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.Nos.34448 & 34459 of 2022
&
W.M.P.Nos.34103 and 34106 of 2022

ARS College of Engineering
Rep. by its Chairman
No.4105, Sattamangalam
Maraimalai Nagar
Chengalpet Taluk
Kancheepuram District .. Petitioner
in W.P.No.34448 of 2022

ARS College of Engineering and Technology
Rep. by its Chairman
Sattamangalam
Maraimalai Nagar
Chengalpet Taluk
Kancheepuram District Petitioner
in W.P.No.34459 of 2022

Vs.

1. The State of Tamil Nadu
   Rep. by its Principal Secretary to Government
   Municipal Administration and Water Supply Department
   Secretariat
   Fort St.George
   Chennai – 600 009

2. The Commissioner
   Maraimalai Nagar Municipality

Municipal Office
Maraimalainagar
Chengalpattu – 603 209 .. Respondents in both Writ Petitions

Prayer in W.P.No.34448 of 2022: Writ petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the impugned order of revision of property tax dated 08.07.2022 in GR-2022/SPL020/018745 and its consequential attachment notice dated 16.11.2022 issued by the 2nd respondent and quash the same, consequently direct the 2nd respondent to consider the appeal of the petitioner dated 20.07.2022.

Prayer in W.P.No.34459 of 2022: Writ petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the impugned order of revision of property tax dated 08.07.2022 in GR-2022/SPL020/018746 and its consequential attachment notice dated 16.11.2022 issued by the 2nd respondent and quash the same, consequently direct the 2nd respondent to consider the appeal of the petitioner dated 20.07.2022.

For Petitioner : Mr.K.Balu
in both W.Ps

For Respondents : Mr.T.K.Saravanan
Govt. Advocate for R1 in both WPs
Mr.L.P.Maurya
Standing Counsel
for Maraimalainagar Municipality
in both WPs

COMMON ORDER

This common order will now govern the captioned two writ petitions and captioned two 'Writ Miscellaneous Petitions' ['WMPs'] thereat.

2. Facts are fairly simple. Short facts are that a 'property tax general revision notice dated 08.07.2022 issued by the second respondent (Commissioner of the Jurisdictional Municipality)' and a 'destraint notice dated 16.11.2022' [hereinafter 'impugned notices' collectively for the sake of convenience and clarity] have been called in question; that the writ petitioner is a private Engineering College; that the upward revision of property tax is with effect from first half year of 2022-23.

3. Mr.K.Balu, learned counsel for writ petitioners in both the writ petitions adverting to the writ affidavit submitted that the writ petitioner colleges come under 'No Admission' category as according to learned counsel, AICTE (All India Council for Technical Education) has not permitted admission for two years. It was also submitted by learned counsel that the Principal of the writ petitioner colleges had gone over to the Office of the second respondent (on receipt of first of impugned notices i.e., revision notice dated 08.07.2022) and after discussions, presented a communication dated 20.07.2022 which is a revision *inter alia* under Rule 10 of 'Taxation and Finance Rules' [hereinafter 'said Rules' for the sake of convenience] under 'Tamil Nadu District Municipalities Act, 1920' [hereinafter 'said Act' for the sake of

convenience]. Learned counsel emphasize that currently 65 students are studying in the final year.

4. Mr.T.K.Saravanan, learned Government Advocate and Mr.L.P.Maurya, learned Standing Counsel for Maraimalainagar Municipality accepted notice for Respondents 1 and 2 respectively.

5.Mr.L.P.Maurya, learned Standing Counsel adverting to the impugned revision notice submitted that a revision has to be submitted within 30 days from the date of issue of revision notice but he has instructions to say that no revision has been submitted by the writ petitioner. To be noted, there are two impugned notices, one dated 08.07.2022 (revision notice) and another dated 16.11.2022 (destraint notice). Therefore, wherever necessary the impugned notices will be referred to as 'revision notice' and 'destraint notice' independently for the sake of clarity and convenience.

6. This means that there is a factual disputation about the submission of revision by the writ petitioner. To be noted, learned counsel for writ petitioner also drew the attention of this Court to another communication dated 18.11.2022 addressed to the second respondent, which according to the writ petitioner is a reminder but learned counsel

for second respondent, on instructions, submits that this reminder also has not been received.

7. In the aforesaid backdrop, this Court considered the facts and circumstances of the cases on hand. This Court is informed without any disputation or contestation that the last revision was in the year 2008, which is nearly one and half decades (14 years) ago. This Court is also informed that this revision exercise is pursuant to an executive fiat i.e., G.O.Ms.No.52 dated 30.03.2022 wherein general revision was made imperative. It was submitted by learned counsel for second respondent that this executive order was challenged in a batch of writ petitions vide W.P.Nos.18534 of 2022 etc., batch and another Hon'ble single Judge of this Court has dismissed the challenge made by various assessees and sustained the G.O.

8. Be that as it may, Rule 10 of said Rules reads as follows:

> *'10. In every case in which between one general revision and another, the [executive authority] assesses any property for the first time or increases the assessment on any property otherwise than in consequence of a general enhancement of the rate at which the property tax is leviable, the [executive authority] shall inmate by a special notice to the owner or occupier of such property that a petition for revising the assessment will be considered if it reaches the municipal*

office within sixty days from the date of service of such notice in the case of the Government, a railway administration or a company, and within thirty days from the said date in other cases.'

9. Rule 10 takes this Court to definition of the term 'Executive Authority'. 'Executive Authority' is defined in Section 8-C of said Act and the same reads as follows:

'(8-C) "Executive Authority" means an officer of the State Government, or of the local authority (not being the Chairman or Vice-Chairman or a member of the council) as may be specified by the State Government.'

10. This court does not express any opinion about whether the revision has actually been filed by the writ petitioners before the second respondent or not as that is a matter of factual disputation. It will suffice to say that it is open to the writ petitioners to pursue the revision if already filed or by filing it afresh. If the writ petitioners file it afresh, it is for the writ petitioners to seek condonation and if condonation is sought for, it is open to the second respondent to deal with the same on its own merits and in accordance with law. It is also open to the writ petitioners to seek any interim protection if the revision is already on file or if it is entertained.

11. It is made clear that if the writ petitioners chooses to pursue the revision in the aforesaid manner, all questions are left open to be canvassed in the revision. This order will neither impede nor serve as an impetus to the revision. If the revision is pursued /presented afresh, the same will obviously be dealt with on its own merits and in accordance with law by the second respondent. Learned counsel also pointed out that the upward revision becomes final on 30 days qua revision notice elapsing, but this question is also left open to be canvassed before Executive Authority as in the cases on hand this also turns on factual disputation owing to contestation regarding filing revisions under Rule 10 of said Rules.

Captioned writ petition and captioned WMP are disposed of as closed albeit with the aforementioned observations. There shall be no order as to costs.

23.12.2022

(1/2)

Index: yes/no
gpa

M.SUNDAR, J.,

gpa

To
1. The Principal Secretary to Government
State of Tamil Nadu
Municipal Administration and Water Supply Department
Secretariat
Fort St.George
Chennai – 600 009

2. The Commissioner
Maraimalai Nagar Municipality
Municipal Office
Maraimalainagar
Chengalpattu – 603 209

W.P.Nos.34448 & 34459 of 2022
& W.M.P.Nos.34103 and 34106 of 2022

23.12.2022
(1/2)