BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.12995 of 2023
and
W.M.P.(MD)No.11009 of 2023

KAMAK Nursery and Primary School,
represented by its Secretary,
Mr.R.Ramesh Kamak,
S/o.A.Rabindran Kamak,
No-38, Sivan Kovil Street,
Tuticorin-628 002. ... Petitioner

vs.

1.The State of Tamil Nadu,
represented by the Secretary to the Government,
Department of Municipal Administration and Water Supply Department,
Fort St.George, Chennai-9.

2.The Tuticorin Corporation,
represented by the Commissioner,
Tuticorin District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned demand notice in Assessment No. 138/039/904577 undated issued by the respondent no.2 for the financial year 2022 – 2023 and to quash the same as illegal and consequently, to direct the respondent no.2 to refund the excess amount collected arbitrarily as property tax for the petitioner's school building at No.-38, Sivan Kovil Street, Tuticorin-628 002.

For Petitioner : Mr.S.Rajasekar
for M/s.Lajapathi Roy and Associates
For R1 : Mr.A.K.Manikkam
Special Government Pleader
For R2 : Mr.N.Anandakumar

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O R D E R

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned demand notice issued by the 2nd respondent for the assessment year 2022 – 2023 as illegal and consequently to direct the 2nd respondent to refund the excess amount collected arbitrarily as property tax for the petitioner's school building at No.-38, Sivan Kovil Street, Tuticorin-628 002.

2. The contention of the petitioner is that it is an unaided School having 337 students. The respondents have issued demand notice, dated 19.11.2013. The said demand notice was challenged in W.P.(MD)No. 4235 of 2014, seeking exemption for educational institutions. This Court directed the respondents to consider and pass orders.

3. The petitioner further submitted that for the earlier period, the same issue was raised before the respondents and the Director of Municipal Administration passed the order, dated 07.08.2009, granting exemption from paying property tax from 01.04.1996. In the year 2019, the respondents issued a demand notice for the assessment years from 2017-2018 (2nd half) to 2019-2020 and demanded Rs.4,47,830/-.

4. The contention of the petitioner is that without issuing proper notice, the respondents forced the petitioner to pay the amount and threatened to disconnect water supply in lieu of failure to pay the amount of property tax for the years 2017 – 2018 (2nd half), 2018 – 2019 and 2019 – 2020.

5. For the year 2019 – 2020, the tax is only Rs.1,79,132/- and the petitioner is not aggrieved by the said amount. However, suddenly, for

the assessment year 2022-2023, the respondents arbitrarily increased the amount and demanded Rs.3,13,482/-, i.e., an increase of Rs.1,34,350/- and the petitioner was forced to pay the same under threat. Since the petitioner has to run the School, the petitioner has remitted the amount under protest. After paying the amount, the petitioner has approached this Court raising various objections for the steep increase in the rates. The respondents without considering the same is taking steps to demand property tax for the next assessment year and the petitioner is serious prejudice by the same. Hence, the petitioner prayed to direct the respondents to reconsider the issue based on the objections raised by the petitioner.

6. The petitioner further submitted that the school is having buildings and play ground as well. The area where playground is situated cannot be considered on par with the building. Therefore, it has

to be assessed under vacant site and impose vacant site tax. The petitioner further submitted that the respondents had not surveyed the school building and vacant space separately.

7. After hearing the arguments of the petitioner this Court is convinced that the property tax was imposed without proper survey and measurement of the buildings and the vacant site, hence the impugned order is quashed. Moreover, when there was an exemption granted in the year 2009, the respondents ought to have issued fresh notice and after hearing the objections the property tax ought to be imposed. Therefore, the respondents are directed to survey the buildings as well as the vacant site. The buildings shall be imposed with property tax and the playground shall be imposed vacant site tax. The petitioner is permitted to submit objections to the respondents within a period of two weeks from the date of receipt of a copy of this order and the respondents shall

consider the same and pass orders within a period of two months thereafter. Before passing the orders, the petitioner shall be granted personal hearing as well.

8. With the above said observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
NCC : Yes / No

03.07.2023
(2/2)

Tmg

To

Secretary to the Government,
The State of Tamil Nadu,
Department of Municipal Administration
and Water Supply Department,
Fort St.George, Chennai-9.

S.SRIMATHY, J

Tmg

W.P.(MD)No.12995 of 2023

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