BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.1136 of 2014
and
M.P.(MD)No.1 of 2014

St.Little Flower Matric Higher
Secondary School,
Rep. By its Principal,
No.3/270, Tajore Main Road (North Side),
North Kattur, Thiruchirappalli-19. ...Appellant

/Vs./

1.The Commissioner,
Thiruchirappalli Municpal Corporation,
Thiruchirappalli.

2.The Assistant Commissioner,
Thiruchirappalli Municipal Corporation,
Ariyamangalam Zone,
Thiruchirappalli. ...Respondents

PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to set aside the order dated 30.07.2014 in W.P.(MD)No.636 of 2013 on the file of this Court and allow the writ petition as prayed for.

For Appellant : Mr.R.Harihara Selvan
for Mr.T.Cibi Chakkaraborthy

For Respondents : No Appearance

JUDGMENT

(Judgment of the Court was delivered by **DR.ANITA SUMANTH, J.)**

Heard Mr.R.Harihara Selvan, learned counsel for the appellant. There is no appearance on behalf of Tiruchirappalli Municipal Corporation, despite service being complete and the description of the respondents being printed in the cause list. Seeing as writ appeal is of the year 2014, we see no need to keep this appeal pending any further and dispose the matter by way of this order.

2. The challenge by the appellant, St.Little Flower Matric Higher Secondary School, is to demand notices calling upon it to remit property tax in terms of the provisions of the Coimbatore City Municipality Corporation Act, 1981 applicable to Tiruchirappalli as well, from the year 2010 onwards (in short 'Act').

3. The impugned demand notice relates to the period 2011-12 and 2012-13 and the basis of the challenge was that the appellant / petitioner, which is a Matriculation School, wholly self financed, would be entitled to an exemption that is provided for under the Act.

4. The learned Judge, by order dated 30.07.2014 has infact accepted the contention of the appellant to the effect that the demand could not be sustained in the absence of any prior assessment. The learned Judge has also rendered a finding to the effect that no notices were issued to the appellant / petitioner prior to rising of the impugned final demand.

5. The stand of the Municipality before the Writ Court was that the School being wholly self financed, was not entitled for full exemption.

6. Thus, in conclusion, the appellant / petitioner was directed to remit a sum of Rs.25,000/- as against a demand of Rs.1,25,532/- and the Corporation was directed to initiate proceedings of assessment by issuance of a notice of provisional assessment setting out basis on which annual rental value was computed. The Corporation was directed to consider the objections filed and pass an order of assessment. It is as against these directions that the School has filed the present appeal.

7. The learned counsel for the appellant would reiterate the contention made before the Writ Court to the effect that it is indeed entitled to the exemption and thus, there was no merit or justification in the directions of the Writ Court to the effect that its building should be inspected and final assessment made.

8. Our attention is drawn to the provision of Section 126 (c) of the Act onwards that grant of exemption in the following terms:

> *"S. 126. General exemptions.- The following buildings and land shall be exempt from the property tax-*
> ....

(c) buildings used for educational purpose including hostels attached thereto and places used for the charitable purpose of sheltering the destitute or animals and orphanages, homes and schools for the deaf and dumb, asylum for the aged and fallen women and such similar institutions run purely on philanthropic lines as are approved by the Council;"

9. While the appellant / petitioner might well be entitled to the exemption, such acceptance would be subject to satisfaction of the statutory conditions. Such satisfaction or otherwise constitutes a question of fact.

10. As noted by the Writ Court, the premises of the appellant / petitioner must be subject to an inspection to determine what components of the buildings are used for educational purposes including as hostels entitling them to the exemption. For this purpose, it is necessary that the appellant specifically seeks such exemption setting out the basis on which the exemption was being sought and the proper procedure is that an inspection of the premises is be carried out by the authorities based on the request for exemption.

11. Bearing in mind that this matter has been hanging fire since 2014, the premises of the appellant / petitioner shall be inspected by the respondents on Wednesday on **16.08.2023** at **10.30 a.m.**, and the appellant / petitioner shall be present in the premises to facilitate the same. No notice need be issued in this regard.

12. After completion of inspection, the suitability of the appellant for exemption shall be considered in accordance with law, and an order shall be passed either rejecting or accepting the claim. The process of assessment for 2011 – 2012 and 2012 – 2013 shall follow thereafter based upon the grant or otherwise of exemption. This exercise shall be completed within a period of three weeks from date of inspection. This Writ Appeal is disposed in the aforesaid terms. No costs. Consequently, connected miscellaneous petition is closed.

[A.S.M.J.,] & [R.V.J.,]
20.07.2023

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

TO:

1.The Commissioner,
Thiruchirappalli Municpal Corporation,
Thiruchirappalli.

2.The Assistant Commissioner,
Thiruchirappalli Municipal Corporation,
Ariyamangalam Zone,
Thiruchirappalli.

DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Judgment made in
W.A.(MD)No.1136 of 2014

Dated:
20.07.2023