BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.07.2023**

CORAM:

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

W.A.(MD)No.158 of 2014

1.O.Muthu
2.M.Raghavendran
3.M.Ramasamy ... Appellants

Vs.

The Commissioner,
Karaikudi Municipality,
Karaikudi, Sivagangai District. ... Respondent

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 18.12.2009 made in W.P(MD)No.10017 of 2008 in as much as the observation of the Hon'ble Judge that the respondent Municipality is entitled to levy property tax for all earlier years without reference to Section 345 of the District Municipalities Act.

For Appellants :Mr.S.Manikandan

For Respondents :Mr.D.Venkatesh

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JUDGMENT

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

The appellants have challenged order dated 18.12.2009 passed in W.P.(MD)No.10017 of 2008, wherein, a challenge was made to a demand notice, dated 25.04.2008 relating to the assessment of the property at Door No.39, Shanmugaraja Road, Karaikudi, Sivagangai (in short 'property'/'property in question').

2.Prior thereto, a Writ Petition had been filed in W.P(MD)No. 9007 of 2007, wherein also, the challenge was to a notice levying property tax under the provisions of District Municipalities Act, 1970 (in short 'Act') and a consequential direction to the Commissioner, Karaikudi Municipality to assess the property in question. To be noted, there is a difference in the address of the property in the two Writ Petitions, but the Court is given to understand that the reference is to the same property.

3.W.P(MD)No.9007 of 2007 came to be disposed on 21.02.2008 directing proper assessment to be made under the provisions of Section 81 of the Act. The demand notice issued was quashed on the ground that it was not preceded by an assessment. Yet another demand notice dated 25.04.2008 came to be issued, that was challenged by way of W.P(MD)No.10017 of 2008.

4.The impugned order quashes the demand notice though granting liberty to the respondent to issue fresh demand notices in line with the principles of natural justice. Inter alia, the learned Judge states thus:

> "*the respondent is also entitled to levy property tax for all earlier years without reference to Section 345 of the Act*.'

5.It is the aforesaid observation that is the subject in this Writ Appeal. Clearly, the intention of the learned Judge was to enable the framing of assessments without reference to the provisions for limitation seeing as litigation has been pending since 2007 in regard to the assessment of the property in question. However, the reference to Section 345 of the Act appears to have been made in error in so far as that provision relates to the limitation in respect of recovery of demand and not limitation for framing of assessment itself.

6.Learned respondent Counsel would submit that assessments have been duly framed from the year 2004-05 onwards, but no payment has been made by the Writ Petitioner towards the due thus far citing pendency of the present Writ Appeal.

7.We clarify the position that framing of assessments for the period from 2004-05 onwards is in line with the provisions of the Act and both the learned Counsels before us accede to this position.

8.With this clarification, nothing further needs to be said in this Writ Appeal and the same stands disposed. No costs.

[A.S.M.J.,] & [R.V.J.,]
06.07.2023

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

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

cmr

W.A.(MD)No.158 of 2014

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