IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.5405 of 2019
and
W.M.P.No.6146 of 2019

M/s.Shree Jain Sangh Trust
Rep. by its Secretary,
S.Nemichand,
770, Tiruvottriyur,
Chennai – 600 019 .. Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai.

2.The Chairman / Managing Director,
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chindatripet, Chennai – 600 002.

3.Senior Accounts Officer – 1,
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Market Lane,
Thiruvottiyur,
Chennai – 600 019.

4.The Tahsildhar,
CMWSSB, Part – I, No.1, Market Line,

Kaladipettai, Thiruvotriyur,
Chennai – 600 019.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in the demand notice No.CMWSSB/Area-1/spl/2018 dated 30.06.2018 from the office of the 3rd respondent with respect to the assessment CMC No.01/008/05442/000, quash the same and consequently direct the 2nd and 3rd respondent to reassess the petitioner building to water and sewerage tax after following the procedures prescribed under the Chennai Metropolitan Water Supply and Sewerage Act, 1978 and its Regulations.

For Petitioner .. Mr.D.Baskar

For R1 .. Mr.E.Abinaya Lakshana
for Mr.E.C.Ramesh

For R2 .. Mr.N.Paul Sunder Singh

ORDER

This writ petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to demand notice No.CMWSSB/Area-1/spl/2018 dated 30.06.2018 issued by the 3rd respondent, Senior Accounts

Officer – 1, Chennai Metropolitan Water Supply and Sewerage Board at Chennai with respect to assessment in CMC No.01/008/05442/000 and quash the same and direct the 2nd and 3rd respondents to reassess the building with respect to water and sewerage tax.

2.It is contended on behalf of the petitioner that the petitioner had been served with the notice dated 30.06.2018 issued by the 3rd respondent raising a demand of Rs.40,708/-. It is contended on behalf of the petitioner that the petitioner is a Trust and therefore, without proper assessment of the land and of the building, the notice had been issued.

3.A counter affidavit had been filed on behalf of the 1st respondent, the Commissioner, Corporation of Chennai wherein, it had been stated that the 1st respondent collects education tax, library cess utlized for specific purposes. Further, educational tax is collected in accordance with the Elementary Education Act. It had been stated that the taxes which are collected are not a bar and therefore, the 1st respondent is empowered to collect the surcharge, which cannot be termed as a tax or as a property tax. It was therefore justified that the annual value had been arrived at properly for the property at 7% of the value of the property and taxed by the Water Board for its services.

4.The 2nd , 3rd and 4th respondents have also independently filed counter affidavit wherein, they have given the assessment details of the petitioner, which is as follows:

S.No	*Bill No./CMC No.*	*In the name of*	*Extent and AV*	*Remarks*
1	01/008/02265/000	Sri Mahaveer Jain Sangh Trust, 770, TH Road, Chennai – 19	3000 sq.ft. Annual Value:8,540/-	Property Tax Rs.1,295/-
2	01/008/05442/000	Sri Mahaveer Jain Sangh Trust – Govt. Aided School, 770, TH Road, Chennai – 19	8575 sq.ft. Annual Value:5,81,540/-	Property tax exempted – since it is a Govt. aided school
3	01/008/08981/000	Sri Mahaveer Jain Sangh Trust, 770, TH Road, Chennai – 19	1907 sq.ft. Annual Value:44,668/-	Property Tax Rs.8,864/-

5.It is stated that the petitioner had paid the half yearly property tax to the Corporation with respect to serial numbers 1 and 3 above. It is further stated that in respect of serial number 2 there was an exemption, since it is a Educational Institution. It is stated that in exercise of power under Sections 34 and 35 and 36(1)(i) and clause (i) of sub-section (2) of Section 81 of the

Chennai Metropolitan Water Supply and Sewerage Act, 1978, the regulations had been issued for levying and collection of water and sewerage tax. The details had been given in the counter affidavit. With specific reference to the petition, it had been stated that the property had been properly assessed and there cannot be any reassessment of the property.

6.In view of these facts, which had been stated, the petitioner will necessarily have to pay the water and sewerage arrears as claimed by the respondents. The relief sought cannot be countenanced by this Court. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected writ miscellaneous petition is closed.

13.11.2024

Index:Yes/No
Internet:Yes/No
smv

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C.V.KARTHIKEYAN,J.

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