BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.6888 of 2022
and
W.M.P.(MD) Nos.5292 and 5295 of 2022

V.S.B.Engineering College,
rep. by its Principal,
V.Nirmal Kannan,
Karudayampalayam Post,
K.Paramathi,
Pugalur Taluk,
Karur. ... Petitioner

/vs./

1.The District Collector,
Office of the Collectorate,
Karur.

2.The Assistant Director of Panchayat,
Rural Development Department,
Karur.

3.The President,
Karudayampalayam Panchayat,
Karur. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining the impugned order of the third respondent in Na.Ka.No.Nil dated Nil.

For Petitioner : Mr.K.P.Narayanakumar

For R1 & R2 : Mr.S.P.Maharajan
Special Government Pleader

For R3 : Mr.P.Subbaraj
Special Government Pleader

ORDER

The petitioner has challenged the impugned communication dated Nil of the third respondent seeking to recover a sum of **Rs.55,09,714/-** as arrears of property tax under Section 171 read with Section 172 of the Tamil Nadu Panchayats Act, 1994 for the period from 2013-14 to 2021-22.

2.This is a third round of litigation before this Court. Earlier, the petitioner had filed the following Writ Petitions for the following relief:-

Sl. No.	W.P.(MD)No.	Prayer
1	7555/2013	Seeking issuance of a Writ of Certiorari, calling for the records relating to the impugned demand notice dated 08.04.2013 of the third respondent in respect of the petitioner Institution's Tax Assessment No.573 for its building situated at Karudayampalayam, Karur 639 111, Karur District, and quash the same.
2	11267/2013	Seeking issuance of a Writ of Certiorari, calling for the records relating to the demand notice dated 06.06.2013 of the third respondent and quash the same.
3	16307/2013	Seeking issuance of a Writ of Certiorari, calling for 2013 the records relating to the demand notice of the third respondent dated Nil, served on the petitioner on 27.08.2013 under Assessment No.573 and quash the same.
4	644/2015	Seeking issuance of a Writ of Certiorari, calling for the records relating to the proceedings of the third respondent herein, viz. the demand dated 29.12.2014 in respect of the Petitioner Institution's Tax Assessment No.573 for its building situate at Karudayampalayam, Karur 639 111, Karur District.

3. By a common order dated 20.09.2017, these four Writ Petitions were disposed of with the following observation:-

> *"10. Therefore, following the judgment of the Full Bench judgment of this Court (cited supra), while declining to interfere with the impugned demand notices, these writ petitions are disposed of, directing the third respondent to re-do the entire exercise in respect of levy of Taxes insofar as the petitioner-College is concerned and issue fresh demand notices, if need be, after affording an opportunity of hearing to the petitioner-college. No costs. Consequently, connected miscellaneous petitions are closed."*

4.The specific case of the petitioner is that the above directions of this Court dated 20.09.2017 has not been complied with by the respondents. Therefore, the impugned demand has to go.

5.That apart, the learned counsel for the petitioner submits that the respondents are only entitled to recover tax and there is no machinery prescribed under Tamil Nadu Panchayats Act, 1994, for imposing or levying surcharge.

6.The learned counsel for the petitioner would submit that Sections 167 and 168 of the Tamil Nadu Panchayats Act, 1994 stood repealed by the Tamil Nadu Panchayats (Fourth Amendment) Act, 2009 (Act 12 of 2009) with effect from 06.08.2009. It is therefore, submitted that in the absence of any statutory backing to levy surcharge, the question of imposing surcharge on the petitioner does not arise.

7.The learned counsel for the petitioner would submit that the surcharge, which has been demanded by the third respondent, cannot be sustained, as Sections 167 and 168 of the Tamil Nadu Panchayats Act, 1994 stood deleted with effect from 06.08.2009. Therefore, the demand is un-sustainable. That apart, it is submitted that a procedure has been prescribed for demanding property tax under Section 172(3) of the Tamil Nadu Panchayats Act, 1994.

8.In this connection, the learned counsel for the petitioner has placed reliance on the decision rendered by this Court on 20.06.2022 in the case of **Good Shepherd Matriculation Higher Secondary School, Rep. by the Correspondent, Nungambakkam, Chennai vs. The Secretary, Department of Municipal Administration and Water Supply Department and others** [W.P.No.34104 of 2019 etc. batch].

9.The learned counsel for the petitioner specifically drew the attention of this Court to Paragraph Nos. 12 and 17 of the said decision, wherein it was held as under:-

> *"12. They also argue that the present arguments, to the effect that the State does not have the power to levy a surcharge, were not raised at the first instance and hence, they are not liable to be taken into account now. That may well be so. However, the issue raised is a legal one and thus, the fact that it has been raised only in the writ petition for the first time, is my view, is in order.*

17. The foundation upon which any levy rests is the authority under which it has been imposed. The proposition that the levy of interest has to be supported by a substantive position in the statute, has been settled by the Constitution Bench of the Hon'ble Supreme Court in the case of ***J.K.Synthetics Ltd. Vs. Commercial Taxes Officer*** *[1994 (94) STC 422 (SC)]. The ratio decidendi has been reiterated in* ***India Carbon Ltd. Vs. State of Assam [106 STC 460]****."*

10.Rule 6 of the aforesaid Rules reads as under:-

"6. Basis of levy of house-tax.-

(1) Every Village Panchayat shall have power to assess the levy and collect the house-tax on the basis referred to under Section 172 of the Act and in accordance with the other provisions of the Act. The Village Panchayat concerned shall decide on the basis of plinth area of house at the rate specified in Schedule I of the Act subject to provision of sub-section (3) of Section 172 of the Act.

(2) House-tax shall be levied by the Village Panchayat either on half-yearly or on annual basis as notified by the Government as per sub- section (3) of the Section 172 of the Act.

(3) Any house-tax so levied shall not be altered or modified during the period of assessment year except with the prior approval of the Inspector:

Provided that, no such prior approval of the inspector is required if the enhancement of the tax is ordered by the Village Panchayat under sub- rule (1) of Rule 3."

11.Rule 14 of the said Rules deals with general revision of Assessment Book.

12.It is submitted that earlier the tax was levied at the rate of Rs.1/- per sq.ft., and that the Panchayat had passed a resolution on 15.03.2010 in its resolution No.208 by reducing the rate of tax from Rs.1/- to 0.75 paisa. This resolution has not been altered. In any event, even if it has been altered, the same has not been communicated to the petitioner and therefore, the property tax demanded under Section 172 of the Tamil Nadu Panchayats Act, 1994 is unsustainable.

13.The learned counsel for the petitioner has drawn attention to the decision of this Court rendered on 20.06.2022 ***in W.P.No.34104 of 2019 and batch (Good Shepherd Matriculation Higher Secondary School Vs. The Secretary, Department of Municipal Administration and Water Supply Department, Chennai and others)***. Specifically, a reference was made to para 13 to 18, which reads as under:-

"13.I find that Gazette Notification dated 07.03.2018 does make reference to Section 172 of the Panchayats Act which, in my considered

view, is misplaced. Section 172 falls under Chapter IX of the Tamil Nadu Panchayats Act, 1994 that deals with 'taxation and finance'. It provides for the levy of a house tax on every house in every panchayat / village and does not refer to surcharge per se. However, it refers to the rates that are specified in Schedule – I, on the basis of which, the taxes are to be levied.

14.This takes us to Schedule – I that classifies properties into concrete houses, tiled houses, attached houses above 20 Sq.mts and attached houses below 20 Sq.mts. There are two explanations below. The first explanation is irrelevant for the purposes of this Writ Petition. The second explanation classifies properties as purely residential, simple commercial like petty shops and other small commercial establishments and large commercial, such as industrial and business establishments, cinema theaters, hostels, lodges etc. The third limb of this explanation talks of a surcharge of 60%.

15.Evidently, this is what has been borrowed in the draft Gazette Notification, though dropped in the final notification. In so far as the final notification does not refer to the Panchayats Act, there is no necessity to dwell any further on this aspect. Perhaps the reason for omission is that the provision under which surcharge was contemplated, Section 168, was itself deleted with effect from 06.08.2009 and thus, the sustenance sought to be drawn from the aforesaid provision, loses all force.

16.That apart, incidentally, I have my own doubts as to whether an educational establishment would come under the description of commercial, industrial and business establishments, Cinema theaters, Hostels, Lodges, etc., of the Panchayats Act. Be that as it may, the fact remains that the Act does not have any provision enabling or contemplating the levy of surcharge and there is no reference to surcharge anywhere in the Act.

17.The foundation upon which any levy rests is the authority under which it has been imposed. The proposition that the levy of interest has to be supported by a substantive position in the statute, has been settled by the Constitution Bench of the Hon'ble Supreme Court in the case of J.K.Synthetics Ltd. Vs. Commercial Taxes Officer [1994 (94) STC 422

(SC)]. The ratio decidendi has been reiterated in India Carbon Ltd. Vs. State of Assam [106 STC 460].

18. In that case, the issue related to the charging of interest on delayed payment of Central Sales Tax in terms of the Sales Tax Act, 1956. However, the Bench repelled the levy accepting the contention that while Section 9(2-A) of the Central Sales Tax Act, 1956 enabled the framing of assessment, reassessment, collection and enforcement of demand of Central sales tax as well as penalty, a statutory provision enabling the levy of interest on delayed payments was conspicuous by its absence."

14.That apart, the learned counsel for the petitioner would refer to Rule 30(3) of the aforesaid Rules, which reads as under:-

"30(3).No tax for any year or half-years whichever is applicable shall be recovered from any person in the manner laid down in Rule 31 unless the bill is served upon such person either within that year or half-years or in the succeeding year or half-years whichever is applicable. Provided that where the Assessment Book has been amended under Rule 3, the bill may be served either in the year or half years whichever is applicable in which the amendment was made or in the succeeding year or half year whichever is applicable.

15.It is further submitted that the demand has to go, as the colleges located in a remote village and therefore, the levy of property tat at the rate of Rs.1/- is itself un-justified. The learned counsel for the petitioner would draw attention to the Rule 7(4) of the Tamil Nadu Village Panchayat (Assessment and Collection of Taxes) Rules, 1999.

16.It is submitted that before passing the resolution, imposing the tax for the first time or increasing the rate of an existing tax, the village Panchayat has to publish a notice in atleast one Tamil Newspaper and also on the notice board of the office of the Village Panchayat and in such other places within the Village Panchayat limits. It is therefore submitted that the impugned demand is liable to be quashed.

17.That apart, it is submitted that the order passed by this Court on 20.09.2017 in W.P.(MD) Nos.7555 of 2013 and batch ***(V.S.B.Engineering College, rep. by its Secretary, Karur Vs. The State of Tamil Nadu, rep. by its Secretary, Rural Development Department, Chennai and others)***, has not been fully complied with. Instead, the demand has been made for the period staring from 2013-14 to 2021-22 for a sum of Rs.55,09,714/-, out of which 60% is towards the surcharge, even though Sections 167 and 168 of the Tamil Nadu Panchayats Act, 1994, stood deleted with effect from 06.08.2019.

18.It is therefore submitted that the demand, which was surcharged after a lapse of 8 years, is un-sustainable and is therefore liable to be quashed.

19.*Per contra*, the learned Special Government Pleader for the respondents would submit that there is no merit in the submission of the learned counsel for the petitioner. It is submitted that though Sections 167 and 168 of the Tamil Nadu Panchayats Act, 1994, stood deleted by the Tamil Nadu Panchayats (Fourth Amendment) Act, 2009 (Act 12 of 2009) with effect from 06.08.2009, the levy of property tax *i.e.,* house tax is under Section 172 of the Tamil Nadu Panchayats Act, 1994 and therefore cannot be questioned.

20.The learned Special Government Pleader has reiterated the averments made in Paragraphs 4 to 7 of the counter affidavit filed by the third respondent and also relied on the decision of this Court rendered on 18.08.2021 in the case of **SSM College of Engineering, Rep. by its Administrative Officer, Komarapalayam, Namakkal District vs. The Government of Tamil Nadu, Rep. by its Secretary, Rural Development and Panchayat Raj Department, Chennai and another** [W.P.No.25014 of 2016].

21.The facts on record indicate that the petitioner has not questioned the levy of tax. It is the case of the petitioner that the levy of tax at Rs.1/- per sq.ft., without cancellation of the order dated 18.03.2010 is un-sustainable.

22.It is submitted that the tax is to be levied in accordance with the Schedule - I of the Tamil Nadu Panchayats Act, 1994. Specifically, the learned Special Government Pleader would draw the attention to Explanation - II to Schedule - I of the said Act, wherein the levy of surcharge was with reference to the use of the building and the Rule was specified as below:

Sl. No.	Class of usage		Rate of surcharge
(i)	Purely residential.	Village Panchayats	Nil
(ii)	Simple commercial like petty shops and other small commercial establishments	Village Panchayats	20%
(iii)	Largely commercial, industrial and business establishments, Cinema theatres, Hostels, Lodges etc.,	Village Panchayats	60%

23.That apart, the learned Special Government Pleader would also refer to Section 176 of the Tamil Nadu Panchayats Act, 1994, wherein has been stated that no exemption from the payment of any surcharge tax specified in Section 171 shall be granted by the Village Panchayat except in accordance with the rules as may be prescribed. It is submitted that surcharge has not been exempted.

24.Defending the impugned demand, the learned Special Government Pleader for the respondents would submit that Sections 167 and 168 of the Tamil Nadu Panchayats Act, 1994, which stood deleted by the Tamil Nadu Panchayats (Fourth Amendment) Act, 2009 (Act 12 of 2009) with effect from 06.08.2009 related to local cess and local cess surcharge and that local cess and local cess surcharge are different from the surcharge, which is levied and demanded under Section 172(1) of the Tamil Nadu Panchayats Act, 1994 r/w Schedule – I of the said Act. Specifically, a reference is made to explanation 1 and 2, which reads as under:-

> *"**Explanation-1:-** In respect of buildings which are partly concrete terraced, tiled or thatched, the rates applicable to the respective categories as above shall be applicable for the portions covered by each kind:*
>
> *Provided that in respect of buildings the plinth area of which does not exceed 18.58 square metres and which are fully concrete, terraced or tiled, or partly concrete terraced or tiled, house-tax shall be levied at a flat rate of rupees twenty per half year.*
>
> ***Explanation-II:-** The use of the building may be classified and surcharge shall be levied on the levy of house-tax at the rates specified below:-*

S.No.	*Class of Usage*		*Rate of surcharge*
(i)	*Purely residential*	*Village Panchayats*	*Nil*
(ii)	*Simple commercial like petty shops and other small commercial establishments.*	*Village Panchayats*	*20%*
(iii)	*Largely commercial, industrial and business establishments, Cinema theatres, Hostels. Lodges etc.*	*Village Panchayats*	*60%*

Provided that in respect of buildings used partly as residential and partly as commercial, industrial, etc. purposes the rate of surcharge applicable to the respective categories as above shall be applicable for the portions covered by each class of usage:

Provided further that Educational Institutions (not commercial in nature) exempted from levy of house-tax immediatey before the commencement of this Act, shall continue to be exempted under this Act."

25.That apart, the learned Special Government Pleader for the respondents would rely on the decision of this Court rendered in ***W.P.No.25014 of 2016 (SSM College of Engineering, rep. by its Administrative Officer, Namakkal Vs. The Government of Tamil Nadu, rep. by its Secretary, Rural Development and Panchayat Raj Department, Chennai and other) dated 18.08.2021***.

26.The learned Special Government Pleader would submit that in the context of a college, like the petitioner levy of surcharge as also the tax under

Section 172 of the Tamil Nadu Panchayats Act, 1994 r/w Schedule – I of the aforesaid Act came up for consideration, wherein after reading the provisions of Sections 172 and 173 of the Act, the Court has observed as under:-

> *"14.Close reading of Section 172 sub-section (1) would reveal that the house tax shall be levied on the basis of classified plinth area at the rates specified in Schedule-I, as the Village Panchayat may adopt subject to the provisions of sub-section (3).*
>
> *15.Sub-section (3) of Section 172 reads us under:*
>
> *"(3) The Government shall, by notification, determine in regard to any Panchayat Village or any class of Panchayat Villages whether the housetax shall be levied every half-year or year and in so doing have regard to the following matters, namely:-*
>
> *(a) the classification of the local areas under Section 4;*
>
> *(b) the annual receipts of the Village Panchayat;*
>
> *(c) the population of the Panchayat Village and the predominant occupation of such population; and (d) such other matters as may be prescribed."*
>
> *16.Sub-section (3) enumerates the classification of the local areas, the annual receipts of the Village Panchayat, the population of the Panchayat Village and such other matters as may be prescribed. Thus, the manner in which the property tax is to be assessed or enumerated is given under sub-sections (3) and (4) of Section 172 of the Tamil Nadu Panchayats Act.*
>
> *17.Relevantly, sub-section (1) to Section 172 unambiguously stipulates that the house tax shall be levied on all houses in every Panchayat Village on the basis of classified plinth area at the rates specified in Schedule-I.*
>
> *18.Thus, Schedule-I is to be taken into consideration for the purpose of specification of rate. Schedule-I to the Act refers Section 172 sub-section (1) of the Tamil Nadu Panchayats Act. Thus, Schedule-I is relatable to Section 172 sub-section (1) of the Act. Section 172 as stated above contemplates that tax shall be levied on the basis of the rates*

specified in Schedule-I and Schedule-I provides classification as well as the minimum rate per half year and maximum rate per half year, minimum rate per year and maximum rate per year. The classification contemplates concrete houses, Madras terraced houses, storeyard houses, tiled houses, thatched houses 20 sq.mts and above, thatched houses below 20 sq.mts. The rates are also prescribed for both half year minimum and half year maximum and also for one year.

19.Explanation-I stipulates that "in respect of buildings which are partly concrete, terraced, tiled or thatched, the rates applicable to the respective categories as above shall be applicable for the portions covered by each kind: provided that in respect of buildings, the plinth area of which does not exceed 18.58 square metres and which are fully concrete, terraced or tiled, or partly concrete, terraced or tiled, house-tax shall be levied at a flat rate of rupees twenty per half year."

20.Explanation-II reads as under:-

"Explanation-II: The use of the building may be classified and surcharge shall be levied on the levy of house-tax at the rates specified below:-

S.No.	Class of Usage		Rate of surcharge
(i)	Purely residential	Village Panchayats	Nil
(ii)	Simple commercial like petty shops and other small commercial establishments.	Village Panchayats	0.20
(iii)	Largely commercial, industrial and business establishments, Cinema theatres, Hostels. Lodges etc.	Village Panchayats	0.60

Provided that in respect of buildings used partly as residential and partly as commercial, industrial, etc., purposes, the rate of surcharge applicable to the respective categories as above shall be applicable for the portions covered by each class of usage:

Provided further that Educational Institutions (not commercial in nature) exempted from levy of house-tax immediately before the *commencement of this Act, shall continue to be exempted under this Act."*

21.Reading of Explanation-II would reveal that "the use of the building may be classified and surcharge shall be levied on the levy of house tax at the rates specified. The language employed in Explanation-II (ii) is surcharge shall be levied" and therefore, the Explanation-II (ii) confers power on the authority competent to demand surcharge. When Schedule-I provides classification of the property and Explanation-II stipulates the use of building may be classified under Explanation-II and surcharge shall be levied on the levy of house tax, there is no ambiguity in respect of the provisions as contemplated under the Tamil Nadu Panchayats Act, 1994.

22.Regarding the unreasonableness in demanding surcharge as raised by the petitioner, this Court is of the considered opinion that, Explanation-II(i) Schedule-I provides complete exemption to purely residential buildings. Purely residential buildings are not liable to pay surcharge at all. For simple commercial like petty shops and other small commercial establishments, 20% of surcharge is specified. Only for large commercial, industrial and business establishments, 60% of surcharge is contemplated. Therefore, the Act has granted exemption for payment of surcharge to pure residential buildings and prescribed 20% for simple commercial buildings and 60% for large commercial and industrial and business establishments. Thus, the classification made undoubtedly is reasonable and there is no illegality or otherwise in respect of such contemplation."

27.It is submitted that Section 176 of the Tamil Nadu Panchayats Act, 1994 stood amended by the Tamil Nadu Panchayats (Fourth Amendment) Act, 2009 (Act 12 of 2009) with effect from 06.08.2009. Thus, it is submitted that there is no scope for concluding that surcharge was payable.

28.Hence, it is submitted that the issue is no longer *res integra* and therefore, the challenge to the impugned notice is without any merits.

29.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Special Government Pleaders for the respondents.

30.The challenge to the impugned levy that the levy of tax including the surcharge cannot be questioned as the surcharge contemplated under Section 168 of the Tamil Nadu Panchayats Act, 1994 prior to its deletion with effect from 06.08.2009 vide Tamil Nadu Panchayats (Fourth Amendment) Act, 2009 (Act 12 of 2009), is relating to local cess surcharge, as per which every person is liable to pay the land revenue to the Government in respect of any land in the Panchayat Union, a local cess surcharge at such rate as may be considered suitable in addition to the local cess leviable under Section 167 of the Tamil Nadu Panchayats Act, 1994 could be levied. It is different from surcharge leviable under Section 172 of the Act read with Tamil Nadu Village Panchayats (Assessment and Collection of Taxes) Rules, 1999.

31.Sections 167 and 168 of the Tamil Nadu Panchayats Act, 1994, which stood deleted by the aforesaid amendment Act, has already been extracted above. Therefore, the allusion to Sections 167 and 168 of the Tamil Nadu Panchayats Act, 1994 as deleted by Tamil Nadu Panchayats (Fourth Amendment) Act, 2009 (Act 12 of 2009) is of no relevance.

32.At this juncture, it is relevant to refer Section 176 of the Tamil Nadu Panchayats Act, 1994, which reads as under:-

> *"**176. Exemption.**- No exemption from the payment of any surcharge or tax specified in Section 171 shall be granted by the Village Panchayat except in accordance with such rules as may be prescribed: Provided that in any particular case, such exemption may be granted with the previous sanction of the Government."*

33.That apart, the learned Special Government Pleader for the respondents would also draw the attention of this Court to the provisions of the Tamil Nadu Village Panchayats (Assessment and Collection of Taxes) Rules, 1999 [vide G.O.Ms.No.255, Rural Development, dated 13th December, 1999].

34.As far as the house tax is concerned, which is essentially a property tax, it has to be read along with Schedule – I and along with Tamil Nadu Village Panchayat (Assessment and Collection of Taxes) Rules, 1999.

35.Sections 167, 168, which were repealed on 06.08.2009, 171, 172 and 176 of the Tamil Nadu Panchayats Act, 1994, before repeal vide Tamil Nadu Panchayats (Fourth Amendment) Act, 2009 (Act 12 of 2009) are reproduced under:-

167	**168**
In this section and in Section 168, 'land revenue' means public revenue due on land and includes water cess payable to the Government for water supplied or used for the irrigation of lands, royalty, lease amount or other sum payable to the Government in respect of land held direct from the Government on lease or licence, but does not include any other cess or the surcharge payable under Section 168: provided that land revenue remitted shall not be deemed to be land revenue payable for the purpose of this section.	Local Cess Surcharge.- Every Panchayat Union Council may levy on every person liable to pay land revenue to the Government in respect of any land in the Panchayat Union, a Local Cess Surcharge at such rate as may be considered suitable as an addition to the Local Cess levied in Panchayat Development Block under Section 167 provided that the rate of local cess surcharge so levied shall not be less than five rupees and not more than ten rupees on every rupee of land revenue payable in respect of such land.

171	172
Taxes leviable by Village Panchayats.- (1) Every Village Panchayat shall levy in the Panchayat Village a house-tax. (2) A Duty shall also be levied in every Panchayat Village on certain transfers of property in accordance with the provisions of Section 175. (3) Subject to such rules as may be prescribed and with the sanction of the Inspector and subject to such restrictions and conditions, if any, as may be imposed by him either at the time of granting sanction or later, the Village Panchayat may also levy in the village, a tax on agricultural land for a specific purpose.	House tax.- The house tax shall be levied on all houses in every Panchayat Village on the basis on which such tax was levied in the local area concerned immediately before the commencement of this Act or on the basis of classified plinth area at the rates specified in Schedule I, as the Village Panchayat may adopt subject to the provisions of sub- section (3).

176
Exemption.- No exemption from the payment of any surcharge or tax specified in Section 168 or 171 shall be granted by the Village Panchayat or the Panchayat Union Council except in accordance with such rules as may be prescribed: Provided that in any particular case, such exemption may be granted with the previous sanction of the Government.

36.It is noticed that the aforesaid resolution was passed in the year 2010 and thereafter, the petitioner was visited the demands for the property tax (house tax) under Section 172 of the Tamil Nadu Panchayats Act, 1994, which was the subject matter of a writ petition in *W.P.(MD) Nos.7555 of 2013 and batch (V.S.B.Engineering College, rep. by its Secretary, Karur Vs. The State of Tamil Nadu, rep. by its Secretary, Rural Development Department, Chennai and others)*, in respect of which an order came to be passed on 20.09.2017.

37.Though the order called upon the respondents to re-do the exercise, the fact remains that the petitioner has paid a sum of Rs.24,75,000/-, as property tax inclusive of the library cess and 60% surcharge as is leviable under Section 172 of the Tamil Nadu Panchayats Act, 1994 r/w Schedule – I to the Act.

38.There are no indications that calculations were made and given by the respondents earlier. However, the petitioner has paid the aforesaid sum for each of the years and thus, in all a sum of Rs.24,75,000/- for the period starting from 2013-14 up to 2023-24 was paid. This is after the present writ petition was filed on 11.04.2022.

39.The petitioner has also not given any calculations for arriving at the aforesaid amount of Rs.24,75,000/- as tax payable by the petitioner. On the other hand, the respondents have demanded tax at Rs.6,88,568/- per each of the assessment years as below for each of the years.

VSB Engineering college tax details -2023-2024

வ.எண்	சொத்தின் விபரம்	வரி பாக்கியுள்ள நிதி ஆண்டு	சொத்து வரி	நூலக வரி	[illegible]	கூடுதல் 4+5+6=7	செலுத்திய தொகை ரூ	செலுத்திய தேதி ரூ	செலுத்த வேண்டிய தொகை ரூ 7-8=10
1	2	3	4	5	6	7	8	9	10
1	சுயநிதி நிறுவனம்	2013-14	405040	40504	243024	6,88,568	2,75,000	22-10-2013	413568
2	சுயநிதி நிறுவனம்	2014-15	405040	40504	243024	6,88,568	2,75,000	11-05-2022	413568
3	சுயநிதி நிறுவனம்	2015-16	405040	40504	243024	6,88,568	2,75,000	11-05-2022	413568
4	சுயநிதி நிறுவனம்	2016-17	405040	40504	243024	6,88,568	2,75,000	11-05-2022	413568
5	சுயநிதி நிறுவனம்	2017-18	405040	40504	243024	6,88,568	2,75,000	11-05-2022	413568
6	சுயநிதி நிறுவனம்	2018-19	405040	40504	243024	6,88,568	2,75,000	11-05-2022	413568
7	சுயநிதி நிறுவனம்	2019-20	405040	40504	243024	6,88,568	2,75,000	11-05-2022	413568
8	சுயநிதி நிறுவனம்	2020-21	405040	40504	243024	6,88,568	2,75,000	11-05-2022	413568
9	சுயநிதி நிறுவனம்	2021-22	405040	40504	243024	6,88,568	2,75,000	11-05-2022	413568
10	சுயநிதி நிறுவனம்	2022-23	405040	40504	243024	6,88,568	0	0	688568
11	சுயநிதி நிறுவனம்	2023-24	405040	40504	243024	6,88,568	0	0	688568
	கூடுதல்	-	4455440	445544	2673264	7574248	24,75,000	0	5099248

40.The argument that surcharge is not payable at this distant point of time cannot be countenanced in the light of the Schedule – I to the Act. Unless the Schedule – I is struck down as *ultra vires* of the provisions of the Act, the petitioner cannot claim any exemption from surcharge leviable under Section 172(1) of the Tamil Nadu Panchayats Act, 1994 r/w Schedule – I to the Act.

41.The argument that the resolution passed by the third respondent on 15.03.2010 as communicated to the petitioner on 18.03.2010 bearing Ref.Na.Ka.No.A2/257/2009 also cannot be the basis for claiming exemption for

25 paisa concession/exemption for the subsequent years. The petitioner cannot enrich itself and take advantage of the delay by the petitioner.

42.The petitioner has been litigating right from 2015 in respect of tax due demanded by the respondents for the period prior to 2013 in *W.P.(MD) Nos.7555 of 2013 and batch (V.S.B.Engineering College, rep. by its Secretary, Karur Vs. The State of Tamil Nadu, rep. by its Secretary, Rural Development Department, Chennai and others)*.

43.Long after the order was passed on 20.09.2017 in the above writ petition, the petitioner has come forward to pay tax at the rate of Rs.24,75,000/- per annum for 9 years. The petitioner has not paid the tax for the succeeding years as well.

44.Under these circumstances, I find no merit in this Writ Petition and therefore, this Writ Petition is liable to be dismissed with a direction to the petitioner to pay the arrears of tax for the period up to the current year within a period of four weeks from the date of receipt of a copy of this order.

Index : Yes / No
Internet : Yes / No

03.06.2024

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To

1.The District Collector,
Office of the Collectorate,
Karur.

2.The Assistant Director of Panchayat,
Rural Development Department,
Karur.

3.The President,
Karudayampalayam Panchayat,
Karur.

C.SARAVANAN, J.

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W.P.(MD) No.6888 of 2022

03.06.2024