BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.9247 of 2018
and
W.M.P.(MD)Nos.8552, 8553 and 8554 of 2018

Sethurajan Padma Matriculation
Higher Secondary School,
Rep. by its Correspondent,
Mrs.Padma Sethurajan,
W/o.P.Sethurajan (Late),
No.64, Jaihindpuram II Main Street,
Madurai – 625 011,
Madurai District. ... Petitioner

versus

1. The Madurai Corporation,
   Rep. by its Commissioner,
   Madurai Corporation Building,
   Madurai.

2. The Assistant Commissioner,
   Madurai Corporation,
   Corporation Building,
   Madurai. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the Provisional Demand Notice dated 31.05.2016, served on 05.03.2018, on the file of the respondent No.2 and consequential order dated Nil on the file of the Respondent No.1 and quash the same as illegal and consequently to forbear the respondents from levying property tax for the petitioner's school in the light of the Section 122(C) of the Madurai City Municipal Corporation Act, 1971.

For Petitioner : Mr.S.Louis

For Respondents : Mr.S.Vinayak,
Standing Counsel

ORDER

The petitioner, a Matriculation Higher Secondary School, has filed this writ petition as against the demand notice issued by the respondent Corporation, demanding property tax for the School, for the year 2016.

2. The case of the petitioner is that in view of the provisions under Section 122(C) of the Madurai City Municipal Corporation Act, 1971, the petitioner School ought to have been exempted from praying property tax. With this averment, the petitioner has filed this writ petition in the year 2018.

3. The issue as to whether the Schools are exempted under Section 122(C) of the Madurai City Municipal Corporation Act, 1971, was already decided by this Court, in similar Writ Petitions filed by the Educational Institutions in W.P.(MD)No.12240 of 2016 etc. (batch cases) dated 21.11.2017, wherein, it has been held as follows:

> "29. Admittedly, the petitioners - schools are not purely philanthropic institutions and it is also not the case of the petitioners - schools that they are running the school without receiving any fees or running the schools totally free to all the students. In the opinion of this Court, Section 122(c) of Madurai City Municipal Corporation Act, 1971, made it explicitly clear that in respect of educational purpose buildings, the places used

for charitable purposes can be exempted. Thus, the persons seeking for exemption should satisfy that it is only for charitable purpose and it is used in philanthropic lines and that should be approved by the Council and only in such an event, the exemption can be sought for.

30. Considering all the facts and circumstances of the case and also taking into account the clear provisions with regard to exemptions from property tax, this Court holds that the petitioners - schools are entitled to claim such exemption only in the event of they being approved by the respective Corporation Council.

31. For the foregoing reasons, all the writ petitions are disposed of, with the following directions:

(i) The petitioners - schools are at liberty to approach the respective respondent - Corporation within a period of two weeks from the date of receipt of a copy of this order, seeking approval of the Corporation Council that the petitioners - schools would come within the purview of claiming exemption under Madurai City Municipal Corporation Act, 1971/Coimbatore City Municipal Corporation Act, 1981, as the case may be;

(ii) On such filing of the applications seeking approval in that regard, the respective respondent -

Corporation shall consider the same on merits and in accordance with law and place them before the Corporation Council for its consideration as per the provisions of the Madurai City Municipal Corporation Act, 1971/Coimbatore City Municipal Corporation Act, 1981, as the case may be;

(iii) The petitioners - schools are also at liberty to produce documentary evidence in support of their claims before the respondent - Corporation claiming exemption of property tax;

(iv) Such exercise be completed by the respective respondent - Corporation after affording due opportunity of hearing to all the petitioners, within a period of six weeks thereafter.

(v) In the event of the Corporation Council approving the respective petitioners - schools as per the above provisions, the petitioners - schools are entitled to claim exemption from payment of property tax. Otherwise, it is for the respective respondent - Corporation to take appropriate action to see that the property tax as demanded by them are collected from the petitioners - schools without any further delay.

(vi) There shall be no order as to costs; and

(vii) Consequently, the connected writ miscellaneous petitions are also closed.

4. A Division Bench of this Court has also decided this issue in Writ Appeals filed by St. Johns Matric Higher Secondary School and others in W.A.(MD)Nos.14 to 21 of 2018, etc. (batch cases) dated 06.07.2021, wherein, it has been held as follows:

> "2.These Writ Petitions have been filed questioning the demand of property tax.
>
> 3. An identical issue was considered by us in W.P.(MD) No.1026 of 2018 dated 06.07.2021 in the case of Sri.Lalitha Vidyashram Matric School vs. The Commissioner,Tirunelveli Municipal Corporation, Tirunelveli and we dismissed the appeal filed by the School. The said judgment reads as follows:-
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> > "Heard Mr.Ragatheesh Kumar, learned counsel for the appellant and Mr.Aayiram K.Selvakumar, learned Standing Counsel for respondent Corporation.
> >
> > 2. This Writ Appeal by the Writ Petitioner is directed against the order and direction issued in W.P.(MD) No.15784 of

2016, which was disposed by a common order dated 21.11.2017, along with batch of cases.

3. We need not labour much to decide the issue on hand as the larger relief sought for by the other institution for issuance of a declaration in W.P.(MD) No.362 of 2019, to declare the Tamil Nadu Municipal Laws (Second Amendment) Act, 2018 as ultra vires and null and void, was rejected by the Hon'ble First Bench of this Court in the Correspondent, St.Joachim's Matriculation School v. The State of Tamil Nadu, represented by its Secretary, Department of Municipal Administration and Water Supply and three others, wherein also the Tirunelveli Corporation was the second respondent, and the Writ petition was partly allowed in terms of the judgment of the Division Bench, dated 13.09.2019. So far as retrospective application of the increase in property tax is concerned, demanding of property tax retrospectively from 01.10.2017 alone was set aside. That apart, the validity of the amended provision has been upheld in the

case of Monfort Academy Matriculation Higher Secondary School v. The Secretary, Department of Municipal Administration and Water Supply Department, Chennai and others in W.P.No. 18008 of 2018 etc., dated 13.09.2019. Therefore, the amended act having been upheld, the relief sought for by the petitioner to quash the recovery of property tax cannot be sustained in terms of the amended statute.

4. So far as the claim for grant of exemption is concerned, it goes without saying that no individual has vested right to seek for exemption and if there was a claim that they will fall within the relevant provisions of the Act, whereby they are entitled to grant of exemption, it is for them to independently seek for appropriate direction. In fact, the learned Single Bench has granted such liberty to seek exemption. However, the provisions of the amended act having been upheld, it may be a difficult task for the appellant to claim exemption. Moreover, they are fee levying institution and not engaged in charitable

purposes. Thus, we are of the view that the impugned order would not call for any interference.

5. Accordingly, the Writ Appeal is dismissed in view of the order aforesaid. No costs. Consequently, connected Miscellaneous Petition is closed."

4. In the light of the above order, these Writ Appeals stand dismissed with similar observations made in W.A.(MD).No.1026 of 2018. No costs. Consequently, connected miscellaneous petitions are closed.

5. In view of the decision rendered by this Court in similar writ petitions filed in W.P.(MD)No.12240 of 2016, etc. (batch cases), this writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

23.01.2024

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

B.PUGALENDHI, J.

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To

1. The Commissioner,
   Madurai Corporation,
   Madurai Corporation Building,
   Madurai.

2. The Assistant Commissioner,
   Madurai Corporation,
   Corporation Building,
   Madurai.

W.P.(MD)No.9247 of 2018

23.01.2024