IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.04.2025

PRONOUNCED ON : 01.08.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.26601 of 2021
and
W.M.P. Nos.28054, 28056 and 28057 of 2021

M/s.Raptakos Brett & Co. Ltd.,
Rep. By its Senior Manager,
Mr.S.R.Obilraj,
No.142 (Old No.66), Velachery Main Road,
Chennai-600 042. ... Petitioner

Vs.

1. The Corporation of Chennai,
   Rep. By its Commissioner,
   Ripon Building, Chennai-600 003.

2. The Assistant Revenue Officer,
   Revenue Department,
   Corporation of Chennai,
   Zone-IX, Chennai-600 015.

3. Chennai Metropolitan Water Supply
   and Sewerage Board,
   Represented by Senior Accounts Officer,
   No.1, Pumping Station Road,
   Chintadripet, Chennai-600 002.

4.The Area Engineer-XIII,
Chennai Metropolitan Water Supply,

and Sewerage Board,
Zone-13, Chennai, No.42, 1st Main Road,
Indira Nagar, Adyar, Chennai-600 020. ... 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 pertaining to the demand notice issued by the 4th Respondent bearing Ref.1634 dated 23.10.2021 and demand notice issued by the 3rd Respondent bearing Ref.Nil dated 09.11.2021 and quash the same as being illegal and arbitrary and consequently forbear the 3rd and 4th Respondent, his office, employees, subordinates, agents or any other persons claiming/ acting under him from in any manner collecting surcharge in respect of the water and sewerage tax especially with regard to surcharge, interest or penalty and correctly compute the dues for the period and adjust the same against the payments already effected.

For Petitioner	: Mr.Rahul Balaji
For Respondents	: Mrs.V.Vijayalakshmi Standing Counsel (for R3, R4) Mr.A.S.Ragul Adhithya for M/s.P.T.Ramadevi Standing Counsel (for R1, R2)

ORDER

The present writ petition is filed on the premise that demand notices issued by 4th respondent dated 23.10.2021 and 3rd Respondent dated 09.11.2021 with regard to water and sewerage tax including surcharge thereof and all further proceedings pursuant and consequent thereto is without authority of law and thus illegal.

2. Petitioner company is engaged in manufacture of pharmaceutical, Dietetic Specialities and Nutraceuticals products with factories in Chennai, Alwar, Roha, Karad, Dahej and Thane. Petitioner's registered office is at Mumbai and has a factory at No.142, (Old No.66), Velachery Road, Chennai-600 042. Petitioner's factory building at Velachery was constructed during 1959 – 1962. Property tax was levied and assessed by respondent Corporation and paid regularly without default. During 2006-07, petitioner made certain alterations and additions to its factory premises in respect of an extent of 21,221.70 sq.ft., after obtaining necessary approval from the authorities concerned. The total constructed area after such alteration/ addition now stands at 71,196 sq.ft.

3. There has been several rounds of litigation prior to this writ petition before this Court with regard to fixation of Annual Value of property for the purposes of levy of property tax for the period commencing 2007. The dispute with regard to fixation of property tax is submitted to commence with a property tax revision order dated 29.03.2007 from the 1st respondent wherein a demand of Rs.17,72,576/- towards property tax was made. This was followed by further demands for the period 2001-02 onwards. This court does not propose to set out in detail the various demands raised under the Property tax except to state that the assessment to property tax of the subject property was the subject matter of challenge in the following Writ Petitions and Writ Appeal viz.,

a) WP.Nos.18758 to 18763 of 2009,

b) WP.Nos.18321 to 18323 of 2010,

c) WP.No.2928 of 2011, and

d) WA.No.2618 of 2018

3.1. At the outset, it may be relevant to note that it is not in dispute that in terms of Section 35 of the Chennai Metropolitan Water Supply and Sewerage Act, 1978, (hereinafter referred to as "CMWSS Act") Water tax and Sewerage tax is levied on the basis of "Annual Value" determined under the Chennai City Municipal Corporation Act, 1919.

4. As stated supra, I do not propose to deal with in detail the Writ Petitions referred to supra except to state that Writ Appeal No.2618 of 2018 was disposed of by this Court directing the petitioner to prefer an appeal before the Taxation Appellate Tribunal, Chennai. Accordingly, Petitioner preferred an appeal before the Tribunal in Appeal No.26 of 2018, under the Chennai City Municipal Corporation Act, 1919. Petitioner continued to pay property tax at the earlier rate.

5. Taxation Appellate Tribunal vide order dated 16.02.2021, fixed the annual value of petitioner's property. Final order of assessment was passed by 2nd respondent on 02.09.2021 on the basis of the finding of Taxation Appellate Tribunal and the property tax assessment came to be finalised at Rs. 2,85,355/- with effect from the assessment year 2000-01 till date.

6. While so, the 3rd and 4th Respondents issued notices demanding payment of water and sewerage tax under the CMWSS Act. It is submitted that the petitioner had not availed of Metro Water Services but provided with sewerage connection only. Further, 4th Respondent had issued a demand and cut off notice dated 23.10.2021 calling upon petitioner to pay a sum of

Rs.44,76,009/- on the basis of the annual value determined by the Taxation Appellate Tribunal. Petitioner was also called upon to pay surcharge of Rs.21,82,447/- towards delayed payment.

7. Petitioner faced with threat of disconnection paid a sum of Rs.18 lakhs under protest towards water and sewerage tax, while contesting levy of surcharge. 4th Respondent issued a further demand notice dated 09.11.2021 after rectification of errors apparent as pointed out by petitioner vide its letter dated 29.10.2021 and reiterated the demand of surcharge and threatening to take coercive proceedings if the same was not paid. It is against the above demand notice dated 23.10.2021 and 09.11.2021 that the present writ petition has been filed on the premise that the demand and cut off notice is sought to be enforced giving petitioner 3 days and 15 days time respectively without affording the petitioner any opportunity of hearing.

8. Petitioner would submit that the levy of surcharge is ex-facie, arbitrary inasmuch as only on finalization of annual value of property by Taxation Appellate Tribunal vide its order dated 16.02.2021, any levy of water and sewerage tax could have been determined inasmuch as water and sewerage tax are computed on the basis of annual value determined for the purpose of levy of

property tax. When the annual value itself had not attained finality until the Tribunal order dated 16.02.2021 demand of water and sewerage tax and certainly surcharge is illegal and arbitrary. Petitioner would further submit that the present demand overlooks the fact that water tax has been levied though petitioner never availed off metro water from CMWSSB. It was thus submitted that the impugned demand notices is contrary to facts and suffers from non-application of mind thus cannot be sustained and liable to be set aside.

9. To the contrary, the learned counsel for respondent would submit that the demand towards arrears was issued by the respondent for non-payment of water tax and sewerage water charges including surcharge for Rs. 44,76,009/- for the period 2000-01 / II to 2021-22/II payable to the Board vide CMC bill No. 13/174/06153/000. Petitioner's premises was provided with Water and Sewerage connection without any interruption, petitioner is liable to pay payment of statutory tax and charges to the Board which is outstanding in the Board's records for seven years. The cut-off notice was thus issued by the respondent Board on 23.10.2021 as per Section 49 (1) (i) and Section 59 (2) of CMWSS Act.

10. It was further submitted that petitioner's premises is an existing assessed building and the annual value dispute arises only with regard to addition and alteration made by the petitioner. If any excess tax is paid by petitioner to the Board, the same may be adjusted against the future tax dues/demand based on the revised assessment of Greater Chennai Corporation (hereinafter referred to as GCC). Cut-off notice issued by Respondent Board dated 23.10.2021 for the non-payment of Water and Sewerage tax and water charge arrears including surcharge works out to Rs.44,76,009/- is sought to be sustained on the premise that the above demand is payable to the Board for over 20 years from 2000 to 2021 in CMC Bill No. 13/174/06153/000, but the petitioner has paid only part payment of Rs.18,00,000/- on 29.10.2021 and hence 3rd respondent issued another demand on 09.11.2021 to pay the balance arrears to the Board.

11. The learned counsel for respondents would reply upon the following judgments in support of their contention that the surcharge is leviable once there is delay in remittance of taxes:

i) W.P.No.7557 of 2008 dated 12.06.2012 – S.Veerabahu vs. The Senior Accounts Office, Area Officer – XIII & 2 others.

ii) W.P.No.17906 of 2000 dated 03.12.2002 – S.V.Sivalinga Nadar vs.

The Chairman-cum-Managing Director, CMWSSB & 3 others.

iii) W.P.Nos.11151 and 11152 of 2003 dated 06.10.2003 – P.Amarnath and 3 others vs. The Chairman and Managing Director, CMWSSB and another.

12. Considering the submissions made by petitioners and Respondents, this Court is of the view that the impugned demand notices dated 23.10.2021 and 09.11.2021 are liable to be set aside for the following reasons:

a) It is not in dispute that levy of water tax and sewerage tax is to be computed on the basis of annual value arrived at under Chennai City Municipal Corporation Act, 1919, for the purpose of levy of property tax. Annual value in terms of Chennai City Municipal Corporation Act, 1919, admittedly attained finality only pursuant to the order of Tribunal dated 16.02.2021. In the absence of annual value having been determined, any levy of water and sewerage tax may not be permissible.

b) That the impugned demand suffers from error apparent inasmuch as the petitioner's submission that they have not been provided with any water connection has not been enquired before demanding water tax.

c) That the demand notices have been made without affording the petitioner any opportunity of hearing, thus entire proceedings suffers from violation of principles of natural justice.

13. For all the above reasons, this Court is inclined to set aside the demand notices dated 23.10.2021 and 09.11.2021 and direct the respondents to redo the exercise after affording the petitioner an opportunity of hearing before they proceed to raise any demand. Writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

01.08.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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MOHAMMED SHAFFIQ, J.

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