

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 31.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.11279 of 2016

and

WMP.No.9781 of 2016

M/s.Steal Udyog (HUF)

Rep. by Kartha Mr.Binnendra Maheswari

174/11A, T.H.Road,

Tondairpet,

Chennai 600 081.

.. Petitioner

Versus

1.The Secretary,

Government of Tamilnadu

Department of Municipal Administration

and Water Supply, Fort St. George,

Chennai 600 009.

2.The Chairman and Managing Director,

Chennai Metropolitan Water Supply

Sewerage Board,

No.1, Pumping Station,

Chintadripet, Chennai.

3.The Deputy Collector,

CMWSSB, Area I and IV,

Area IV, No.10C, 4th Main Road,

Central Avenue, M.K.B.Nagar,

Chennai 600 039.

4.The Senior Accounts Officer,

CMWSSB, Area IV, Ramanujar Street,

Old Washermenpet,

Chennai 600 021.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of Certiorari, calling for the records on the file of the third respondent relating to the Distraint Notice dated 28.01.2016 and quash the same.

For Petitioner : Mr.R.Neethi Perumal

For Respondents : Mr.R.M.Muthukumar (for R1)

Government Advocate

Mr.M.Jothikumar (for R2 to R4)

O R D E R

Heard Mr.R.Neethi Perumal, learned counsel appearing for the petitioner and Mr.R.M.Muthukumar, learned Government Advocate appearing for the first respondent and Mr.M.Jothikumar, learned counsel appearing for the respondents 2 to 4, accepting notice on behalf of respondents. With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2. The petitioner has filed this writ petition challenging the distraint notice dated 28.01.2016 issued by the respondent Board for default in payment of water and sewerage charges for the period from first half year 1993-1994 onwards.

3.The petitioner's case is that the impugned demand has been issued without notice to the petitioner. The property owned by the petitioner is a vacant land and has not been assessed by the Corporation of Chennai to tax. Therefore, it is submitted that the petitioner is not aware as to the basis of the impugned distraint notice. When the case came up for admission on 28.03.2016, the learned standing counsel appearing for the Board was directed to accept notice and get instructions. On instructions, it is submitted that the Corporation of Chennai has assessed the petitioner's property and has fixed the annual value of the property at Rs.10,134/- and based on such annual value the water and sewerage tax has been demanded from the petitioner. However, there is no explanation forthcoming as to why such a demand was not raised from 1993-1994 onwards and all of sudden a demand has been raised from 1993 to till 2015. That apart, the petitioner has not been issued any show cause notice as to what basis the respondent Board came to know that annual value has been fixed at Rs.10,134/-. Hence, this Court inclined to interfere this issue.

4.Accordingly, this writ petition is allowed and demand notice issued by the respondent Board dated 28.01.2016 is quashed with a direction to the respondent Board to ascertain full information from the Corporation of Chennai and thereafter issue show cause notice. The notice should be accompanied with the proceedings issued by the Corporation of Chennai wherein the annual value of the property has been fixed by the Corporation, on such notice being issued, the petitioner shall submit his objection within a period of two weeks from the date of receipt of the notice and thereafter, the competent authority of the respondent Board shall pass appropriate order on merits and in accordance with law.

5. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AS)

//True Copy//

Sub Assistant Registrar

vs/kpr

To

1. The Secretary,
Government of Tamilnadu
Department of Municipal Administration
and Water Supply, Fort St. George,
Chennai 600 009.
2. The Chairman and Managing Director,
Chennai Metropolitan Water Supply
Sewerage Board,
No.1, Pumping Station,
Chintadripet, Chennai.
3. The Deputy Collector,
CMWSSB, Area I and IV,
Area IV, No.10C, 4th Main Road,
Central Avenue, M.K.B.Nagar,
Chennai 600 039.
4. The Senior Accounts Officer,
CMWSSB, Area IV, Ramanujar Street,
Old Washermenpet,
Chennai 600 021.

+2ccs to Mr.R. Neethi Perumal, Advocate, S.R.No.20465
+1cc to Mr.Jothikumar, Advocate, S.R.No.20218
+1cc to the Government Pleader, S.R.No.20528

RSY(CO)
EU(13/04/2016)

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