

W.P.Nos.26907 & 26910 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2022

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.26907 & 26910 of 2022

and

W.M.P.Nos.26105, 26107,26110 & 26112 of 2022

M/s.HCL Technologies Limited

Represented by its Authorized Signatory,

Patric Santhanam,

No.64-66, Estate Bus Stand, Industrial Estate,

Mannurpet, Chennai 600 058.

... Petitioner in both W.Ps.

vs.

1.The Commissioner,

Greater Chennai Corporation,

Rippon Buildings, Chennai-3.

2.The Deputy Commissioner,

(Revenue & Finance),

Greater Chennai Corporation,

Rippon Buildings, Chennai 600 003.

3.The Assistant Revenue Officer,

Greater Chennai Corporation,

Zonal Office – 7, C.T.H.Road(Opposite Dunlop)

Chennai 600 053.

... Respondents in both W.Ps.



W.P.Nos.26907 & 26910 of 2022

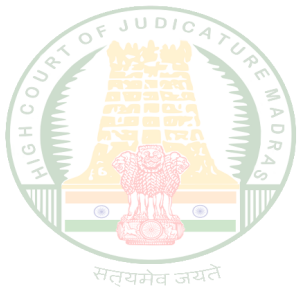
Prayer in W.P.No.26907 of 2022: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari calling for records of the respondents pertaining to Order bearing No.Z.O.VII.C.No.0341/2022 dated 28.09/2022 passed by the 2nd respondent and consequential Final Assessment Order bearing No.10/22-23/568783 dated 19.09.2022 and No.10/22-23/568901 dated 27.09.2022, issued by the 3rd respondent and quash the same.

Prayer in W.P.No.26910 of 2022: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari calling for records of the respondents pertaining to Order bearing No.Z.O.VII.C.No.0341/2022 dated 28.09/2022 passed by the 2nd respondent and consequential Final Assessment Order bearing No.10/22-23/568782 dated 19.09.2022 and No.10/22-23/568902 dated 27.09.2022, issued by the 3rd respondent and quash the same.

For Petitioner : M/s.Srinath Sridevan
For Respondents : Ms.Aswini Devi.K
Standing Counsel.

COMMON ORDER

By this common order, both the writ petitions are being disposed, at the time of admission, after hearing the learned counsel for the petitioner and the learned Standing Counsel for the respondents.



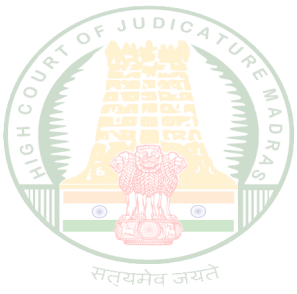
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2. On instructions, the learned Standing Counsel for the respondents confirms that as against the demand for property tax confirmed with retrospective effect from 2011, the petitioner has remitted a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) through RTGS without prejudice.

3. This is a third round of litigation by the petitioner. The impugned order has been passed by the second respondent Deputy Commissioner pursuant to an order dated 15.09.2021 in W.P.Nos.33655/2017, 33659/2017 - ***HCL Technologies Pvt.Ltd vs. Commissioner, Corporation of Chennai and Others.***

4. The specific case of the petitioner is that the petitioner cannot be saddled with property tax liability at rates applicable to Commercial units as the petitioner is a software industry and therefore the petitioner cannot be saddled with excess tax liability.

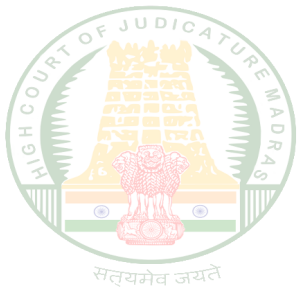
5. It is further submitted that with effect from 1st August, 2017 -18, the petitioner has started pay on the enhanced tax of Rs.5,74,415/- .



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6. The learned counsel for the petitioner submits that the respective levy of tax from 2011 retroactively is arbitrary, illegal and contrary to the provisions of the Chennai City Municipal Corporation Act, 1919. It is further submitted that the impugned order dated 28.09.2022, was served on the petitioner at 3.00 p.m on 29.09.2022 and on 30.09.2022, two Officers from the respondent Corporation threatened to seal the premises. On the same day, all the staffs were asked to leave the premises and at about 5.45 p.m. the premises were locked though the petitioner paid a sum of Rs.50,00,000/- under protest and handed over protest letter to the respondents.

7. It is further submitted that on the same day, the respondents have removed the locker but threatened to reseal the premises, unless the petitioner fails to balance amount. It is further submitted that without giving an adequate opportunity to the petitioner to file an appeal within the time prescribed under Section 138, Schedule IV, Taxation Rules, Part V, Rule 12 & 14 of Chennai City Municipal Corporation Act, 1919. The respondents have resorted to coercive measure which is contrary to law.

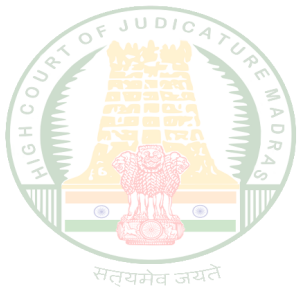


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8. The learned Standing Counsel for the respondents on the other hand, would submit that the petitioner has an alternate remedy and therefore, the present writ petition is liable to be dismissed. It is specifically submitted that the petitioner has an alternate remedy in terms of Section 138, Schedule IV, Taxation Rules, Part V, Rule 12 & 14 of Chennai City Municipal Corporation Act, 1919.

9. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Standing Counsel for the respondents .

10. *Prima facie*, it appears that the imposition enhanced tax on the petitioner appears to be contrary to the provisions of Chennai City Municipal Corporation Act, 1919 and G.Os. A similar issue relating to levy of privilege fee under the provisions of the Tamil Nadu Prohibition Act, 1937 and the relevant Government Order came to be considered by this Court in W.P.No.31057 of 2017 and an order was passed on 11.06.2021. Relevant portion of the said order, it has been observed as under:-



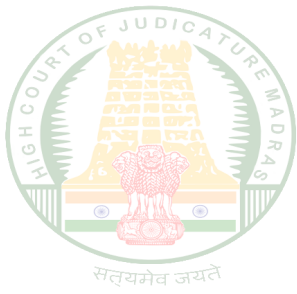
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39. *The demarcation of boundary of the Greater Chennai Corporation was expanded from 178 km² to 426 km² in the year 2018 vide G.O.Ms.No.1 dated 04.01.2018 Revenue and Disaster Management, Revenue Administration Wing [RA 1(1)], dated 04.01.2018 for Revenue Administration – Jurisdiction – Expansion of Chennai Revenue District. It added Revenue Villages from Kancheepuram and Thiruvallur Districts with jurisdiction that were co-terminus with that of Greater Chennai Corporation – Orders. It has accepted the recommendation of District Revenue Officer & District Collector (i/c) Chennai vide Letter No.A1/17305/2016, dated 10.08.2016 and that of the Principal Secretary / Commissioner of Revenue Administration, vide Letter No.Ser.VI(3)/31663/2016, dated 11.08.2016 and has included the Ramapuram within the Revenue District of Chennai City.*

40. *Approximately 67 revenue villages from, Kancheepuram District and Thiruvalluvar were merged with the Chennai city. Till then “Chennai City” had only approximately about 55 villages. About 122 villages were grouped under 3 revenue zones-North, Chennai, Central Chennai and South, Chennai vide G.O.Ms.No.1 dated 04.01.2018 Revenue and Disaster Management, Revenue Administration Wing [RA 1(1)], dated 04.01.2018 for Revenue Administration – Jurisdiction – Expansion of Chennai Revenue District.*

41. *Thus, what is evident is that the petitioner's club situated in Ramapuram within the Madhuravoyal Taluk, Tiruvallur District merged with the Chennai Revenue District*



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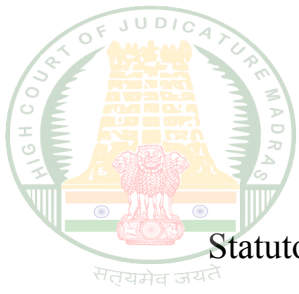
Madhuravoyal Taluk, Zone II of the Corporation of Chennai only in 2018 vide G.O.Ms.No.1 dated 04.01.2018 Revenue and Disaster Management, Revenue Administration Wing.

42. It is consequent to the above notification dated January 4, 2018, 67 Revenue Villages of Kancheepuram and Thiruvallur Districts merged with the Chennai District. Thus only from the year 2018, the petitioner came within the Chennai Revenue District and was therefore liable to pay privilege fee applicable to FL2 Licence at the rate prescribed for such licensee in Chennai City. Therefore, there is no legal basis on which the impugned demand can be sustained.

43. In the light of the above, the writ petition deserves to be allowed and accordingly, this writ petition is allowed. No costs. 11.06.2021

11. The issue was examined in the light of the notification in G.O.Ms.No.97, Municipal Administration and Water Supply (Election), dated 19.07.2011 issued under Section 45(1) of Chennai City Municipal Corporation Act, 1919 and since there was a short payment of privilege fee from the petitioner therein for the aforesaid period, the petitioner was called upon to pay same. It was in the background, this Court concluded as above and held that notification issued for the purpose of delineating the constituency did not for impact Revenue jurisdiction.

12. The petitioner is directed to file a statutory appeal before the



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Statutory Authority in terms of Section 138, Schedule IV, Taxation Rules, Part V, Rule 12 & 14 of Chennai City Municipal Corporation Act, 1919 within the period of limitation prescribed. The matter would require by detailed consideration in appeal.

13. Considering the fact that the petitioner is *prima facie* liable to pay tax on commercial rates only from 2018 and since the petitioner has already deposited a sum of Rs.50,00,000/- (Rupees Fifty lakhs only) on 30.09.2022, I direct the petitioner to deposit another sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) within a period of two weeks from today. The second respondent Corporation Deputy Commissioner is directed to not to lock the premises of the petitioner HCL Technologies Limited pending disposal of the appeal.

14. The learned counsel for the petitioner is directed to convey the decision of this Court to the respondents so that the activities at the petitioner's Software Technologies Limited are not hampered.

15. It is made clear that if the petitioner fails to make further



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payment of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) as ordered above, this order shall be automatically stand vacated without any further reference to this Court.

16. These writ petitions stand disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

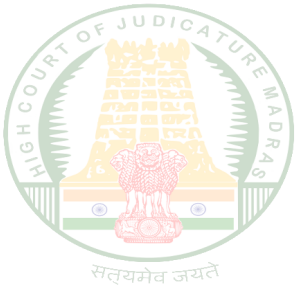
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Index : Yes/No

Internet : Yes/No

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Note: Web copy of this order may be utilised for official purpose. The validity of this web copy is limited upto 12.10.2022, in view of the Dussehra Holidays. A certified copy of the order shall be applied and collected by the advocate /litigant concerned on payment of necessary charges with Registry.



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C.SARAVANAN, J.

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To

- 1.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings, Chennai-3.
- 2.The Deputy Commissioner,
(Revenue & Finance),
Greater Chennai Corporation,
Rippon Buildings, Chennai 600 003.
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