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Metrowater's tax demand notices set aside

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Section 35 of CMWSSB Act permits reliance on property tax assessment as stop gap arrangement

CHENNAI: It is a settled proposition of law that when a statute prescribes to do a particular thing in a particular manner, the same should not be done in any other manner. The proposition is well recognised as held by the Supreme Court in a case, the Madras High Court has said.

Justice N. Paul Vasanthakumar was passing a common order on writ petitions filed by the Madras Sanskrit College and S.S.V. Patasala, Mylapore, seeking to quash the orders of the Chennai Metropolitan Water Supply and Sewerage Board of 2000 intimating arrears of water tax.

The petitioner's case was that the CMWSSB was supplying water to the institution and it was paying water and sewerage tax regularly till March 3, 1994. After the City Municipal Corporation Act was amended, all educational institutions were exempted from property tax. Accordingly, the petitioner was also exempted. The demand for water and sewerage tax was made based upon the annual value as determined by the Chennai Corporation in respect of property tax. From April 1, 1994, no property tax was payable. The institution stopped paying Metrowater and sewerage tax. The CMWSSB Act clearly stated that the board should determine the annual value for each year for assessing the water and sewerage tax. However, insofar as the petitioner was concerned, no such assessment was made by the Board.

Mr. Justice Vasanthakumar set aside the impugned demand notices as no assessment as required under Section 34 of the CMWSSB Act had been made by the Board for all these years while making the impugned demand. When the statute mandated the Board to assess the water and sewerage tax in a particular manner, it was not open to the Board to assess the tax on the basis of property tax assessed earlier by the Chennai Corporation. Section 35 of the Act permitted reliance on property tax assessment which was a stop gap arrangement and the same could not be continued for years together.

The Judge directed the Board to assess the tax as required under law and demand the same from the petitioner. On such assessment, the amount already paid could be given credit to and the arrears, if any, could be demanded from the institution.