(1974) 07 MAD CK 0006

In the Madras High Court

Superintendent Engineer, Erode Electricity System — APPELLANT

Vs

Executive Officer, Town Panchayat and Commissioner, Erode Municipality
The Madras State Electricity Board Vs The Executive Officer, Sulur Town Panchayat — RESPONDENT

Date of Decision : 22-07-1974

Acts Referred:
Tamil Nadu District Municipalities Act, 1920 — Section 93

Citation : (1975) 2 MLJ 256

Hon'ble Judges : B.S. Somasundaram, J

Bench : Division Bench

Judgement

B.S. Somasundaram, J.—The question that arises in all these petitions is whether the Madras State Electricity Board, a statutory body,

transacting the business of the supply of electricity to consumers in many municipalities and panchayats of the State is liable to pay profession tax.

The Courts below have held that it is liable. Section 93 of the Tamil Nadu District Municipalities Act, 1920, enables the Municipal Council to

determine by a resolution the payment of profession tax by every company and person transacting business within its limits for more than 60 days

in any half year. Section 95 of the Act provides for the service of notice on such company or person and this notice should give them 15 days time

for payment. Rule 30 in Schedule IV states that if the amount that is demanded by notice is not paid within the time prescribed, the executive

authority may recover the amount by distraint. If such distraint is not practicable, the authority may resort to a prosecution. Rule 36"" provides for

the punishment. Similarly, Section 121 of the Tamil Nadu Panchayats Act provides for the levy of profession tax. Section 161 of the said Act provides for penalty for failure to comply with a demand notice. There is no definition of the word ""person"" either in the Tamil Nadu District

Municipalities Act or in the Tamil Nadu Panchayats Act. Sub-section (22) of Section 3 of the Tamil Nadu General Clauses Act defines a ""person

as including any company or association of individuals, whether incorporated or not. Therefore, the Madras Electricity System will come under the

definition of ''person'' in the General Clauses Act, and it is therefore clear that the said Electricity System is liable to pay profession tax as assessee

in every one of its centres or branches situate in municipalities or panchayats, where it transacts business in a concerned half year. I am in complete

agreement with the views expressed by Anantanarayanan C.J., in The Chairman, Madras State Electricity Board Vs. Gobichettipalayam

Municipality and Another, The Courts below have directed the Electricity system to pay the profession tax.

2. In the two Criminal Revision Cases, the Superintending Engineer, Erode Electricity System has been sentenced to pay a fine. Considering the

circumstances of the case, while confirming the convictions, I set aside the sentence of fine imposed in both the cases and admonish the petitioner

u/s 3 of the Probation of Offenders Act. If the fine amount had already been paid, it shall be refunded to the petitioner. The order directing the

petitioner to pay the postal charges is also set aside. The Civil Revision Petition is dismissed. The parties will bear their own costs throughout. If the

profession tax is in arrears, the petitioner shall pay the same within two months from to-day.