IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	29.08.2025
Pronounced on	07.11..2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.10194, 4552, 4481, 4472, 4477, 7619, 11033, 11035, 11038, 12221, 12224, 12235, 12230, 12238, 12243, 12251, 12253, 12245, 12249, 12255, 12604, 24189, 26937, 26939, 26941, 26942, 26944, 26951, 31337 & 31342 of 2025

and

W.M.P.Nos.11444, 4976, 4982, 4987, 5068, 8546, 12242, 12447, 12450, 13783, 13799, 13804, 13790, 13806, 13809, 13822, 13829, 13832, 13815, 13824, 14192, 27220, 30257, 30260, 30251, 30253, 30255, 35063 & 35068 of 2025

W.P.No.10194 of 2025:

Mrs.M.Divya

... Petitioner

Vs.

The Senior Revenue Officer
Ward. 186, Zone- 14,
Revenue Department,
Greater Chennai corporation,
Chennai, Tamil nadu.

...Respondent

W.P.Nos.4552, 4481, 4472, 4477, 31337 & 31342 of 2025

Easwaramoorthi

...Petitioner

vs.

The Assistant Commissioner
Ward. 004, North Zone, Coimbatore
Municipal Corporation, Saravanampatti,
Coimbatore.

... Respondents

W.P.No.7619 of 2025

P.Jothimani

...Petitioner

vs.

The Assistant Commissioner
Ward- IV, North Zone, Coimbatore City
Municipal Corporation , Saravanampatti,
Coimbatore.

... Respondents

W.P.Nos.11033, 11035 & 11038 of 2025

V Anitha

...Petitioner

vs.

The Assistant Commissioner
Ward 004, North Zone,
Coimbatore Municipal Corporation,
Saravanampatti, Coimbatore.

... Respondents

W.P.No.12221 of 2025

R.Anitha

...Petitioner

vs.

1. The Commissioner
Coimbatore City Municipal Corporation,
Coimbatore

2. The Assistant Commissioner,Coimbatore
City Municipal Corporation,
Central Zone, Coimbatore
Coimbatore City Municipal Corporation,
Central Zone, Coimbatore - 641045

... Respondents

W.P.Nos.12224, 12235, 12230, 12238, 12243, 12251, 12253, 12245, 12249 & 12255 of 2025

D Dhanagopal

...Petitioner

vs.

The Commissioner
Ward 004, North Zone
Coimbatore Municipal Corproaiton,
Sarvanampatti, coimbatore

... Respondents

W.P.No.12604 of 2025

M.Divya

...Petitioner

vs.

Special Tahsildar
Chennai Metropolitan Water Supply And
Sewerage Board, No.1, Rajiv Gandhi Salai,

Omr Kottivakkam, Chennai,
Tamilnadu-600 041

... Respondents

W.P.No.24189 of 2025

Subburayan Mens Pg
Represented by its proprietor
M N Subburayan, S/O. Nagaiah,
having office at
No 33/16 Anna Street
Tharamani Chennai

...Petitioner

vs.

1. The Secretary to Government,
Municipal Administration and water supply
Department, Government of Tamil Nadu,
Saint George Fort, Chennai

2. The Chairman
Chennai Metro water Supply and Sewerage Board,
Chindadripet Chennai

3. The Depot Manager
Chennai Metro water Supply and Sewerage Board,
Division 13 Depot 178 Adayar Chennai

4. The Assistant Engineer
Chennai Metro water Supply and Sewerage
Board, Division 13 Depot 178 Adayar
Chennai

... Respondents

W.P.Nos.26937, 26939, 26941, 26942, 26944 & 26951 of 2025

V.P.Kumaravel

...Petitioner

vs.

1. The Commissioner
Coimbatore City Municipal Corporation,
Town Hall, Coimbatore- 641 001.

2. The Assistant Commissioner
East Zone Coimbatore City Municipal
Corporation, Coimbatore-641 005.

... Respondents

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari,

call for the records of the impugned Notice No.7/24-25/736410 dated 14.05.2024 issued by the respondent herein, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/902398 old assessment No. 162/286504 uploaded in the Coimbatore Municipal Corporations website, demanding an arbitrary and exorbitant amount of Rs. 47852/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/902376 old assessment No. 162/286481 uploaded in the Coimbatore Municipal Corporations website, demanding an arbitrary and exorbitant amount of Rs. 47852/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in

assessment No. 162/004/902365 old assessment No. 162/286471 uploaded in the Coimbatore Municipal Corporations website, demanding an arbitrary and exorbitant amount of Rs. 43926/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/903515 old assessment No. 162/2811676 uploaded in the Coimbatore Municipal Corporations website on , demanding an arbitrary and exorbitant amount of Rs. 79,551/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in New Assessment No. 162/004/902296and Old Assessment No. 162/286390pasted in the petitioners property, demanding an arbitrary and exorbitant amount of Rs. 2,50,906/-, passed by the respondent herein and quash the same

call for the records of the impugned property tax demand in assessment No. 162/004/902154 old assessment No. 162/2815129 uploaded in the Coimbatore Municipal Corporations website, demanding an arbitrary and exorbitant amount of Rs. 22,272/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/902153 old assessment No. 162/2815128 uploaded in the Coimbatore Municipal Corporations website, demanding an arbitrary and exorbitant amount of Rs. 21,765/-, from the files of the respondent herein, QUASH the same

call for the records of impugned property tax demand in

assessment No. 162/004/902155 old assessment No. 162/2815130 uploaded in the Coimbatore Municipal Corporations website, demanding an arbitrary and exorbitant amount of Rs. 23,636/-, from the files of the respondent herein, QUASH the same

Declaring that the action of the Respondents in unilaterally revising the property tax by classifying as Commercial in respect of the Petitioners property bearing Door Nos. 1, 1/1, 1/2, 1/3 and 1/4, Ramalingam Colony, Coimbatore and bearing Assessment Nos. (i) Old 162/22102160, New 162/069/900335, (ii) Old 162/22105786, New 162/069/905977, (iii) Old 162/22105787, New 162/069/905978, (iv) Old 162/22105788, New 162/069/905979 and (v) Old 162/22105823, New 162/069/901722 as totally illegal, void and contrary to law

call for the records of the impugned property tax demand in assessment No. 162/004/901967 old assessment No. 162/2810767 uploaded in the Coimbatore Municipal Corporatios website, demanding an arbitrary and exorbitant amount of Rs. 7255/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/901964 old assessment No. 162/2810764 uploaded in the Coimbatore Municipal Corporations website, demanding an arbitrary and exorbitant amount of Rs. 6732/-, from the flies of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/901965 old assessment No. 162/2810765 uploaded in the Coimbatore Municipal Corporations website, demanding

an arbitrary and exorbitant amount of Rs. 7255/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/901918 old assessment No. 162/2810590 uploaded in the Coimbatore Municipal Corporations website, demanding an arbitrary and exorbitant amount of Rs.10640/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/901949 old assessment No. 162/2810708 uploaded in the Coimbatore Municipal Corporations website, demanding an arbitrary and exorbitant amount of Rs.9445/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/901916 old assessment No.162/2810589 uploaded in the Coimbatore Municipal Corporations website, demanding an arbitrary and exorbitant amount of Rs.10668/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/901915 old assessment No.162/2810588 uploaded in the Coimbatore Municipal Corporations website,demanding an arbitrary and exorbitant amount of Rs.10668/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/901951 old assessment No. 162/2810710 uploaded in the Coimbatore Municipal Corporations website, demanding

an arbitrary and exorbitant amount of Rs. 9445/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/901950 old assessment No. 162/2810709 uploaded in the Coimbatore Municipal Corporations website, demanding an arbitrary and exorbitant amount of Rs. 9445/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned property tax demand in assessment No. 162/004/901952 old assessment No. 162/2810711 uploaded in the Coimbatore Municipal Corporations website, demanding an arbitrary and exorbitant amount of Rs. 9445/-, from the files of the respondent herein, QUASH the same

call for the records of the impugned Recovery Notice Existing CMC/New CMC.1418603280000/14184026275 dated 07.03.2025 issued by the respondent herein, from the files of the respondent herein, QUASH the same

call for the records in connection with the demand notice in Se.Ku.Va/pama-178/2025 dated 13.06.2025 issued by the 4th respondent and quash the same as illegal and improper and consequentially forbear the respondents from collecting the water taxes in future in respect of the petitioner s property under commercial basis

to call for the entire records relating to the impugned reclassification of the Petitioners residential property usage as Commercial by the Respondents on the official property tax portal, and consequential demand for increased property tax for the financial year

2025-2026, in respect of Assessment No. 162/023/907032, pertaining to the Petitioners residential property situated in Survey No.564/2, Shasthri Nagar, Kalappatti Village, Coimbatore District, comprised in Site Nos. 21/5, and to Quash the same as arbitrary and illegal and consequently direct the Respondents to restore the classification of the said Petitioners property usage as Residential for the purposes of property tax assessment and to reassess the property tax for the financial year 2025- 2026 accordingly

to call for the entire records relating to the impugned reclassification of the Petitioners residential property usage as Commercial by the Respondents on the official property tax portal, and consequential demand for increased property tax for the financial year 2025-2026, in respect of Assessment No. 162/023/907033, pertaining to the Petitioners residential property situated in Survey No.564/2, Shasthri Nagar, Kalappatti Village, Coimbatore District, comprised in Site Nos. 21/6, and to Quash the same as arbitrary and illegal and consequently direct the Respondents to restore the classification of the said Petitioners property usage as Residential for the purposes of property tax assessment and to reassess the property tax for the financial year 2025- 2026 accordingly

to call for the entire records relating to the impugned reclassification of the Petitioners residential property usage as Commercial by the Respondents on the official property tax portal, and consequential demand for increased property tax for the financial year 2025-2026, in respect of Assessment No. 162/023/907031, pertaining to

the Petitioners residential property situated in Survey No.564/2, Shasthri Nagar, Kalappatti Village, Coimbatore District, comprised in Site Nos. 21/4, and to Quash the same as arbitrary and illegal and consequently direct the Respondents to restore the classification of the said Petitioners property usage as Residential for the purposes of property tax assessment and to reassess the property tax for the financial year 2025 -2026 accordingly

to call for the entire records relating to the impugned reclassification of the Petitioners residential property usage as Commercial by the Respondents on the official property tax portal, and consequential demand for increased property tax for the financial year 2025-2026, in respect of Assessment No. 162/023/907036, pertaining to the Petitioners residential property situated in Survey No.564/2, Shasthri Nagar, Kalappatti Village, Coimbatore District, comprised in Site Nos. 21/2, and to Quash the same as arbitrary and illegal and consequently direct the Respondents to restore the classification of the said Petitioners property usage as Residential for the purposes of property tax assessment and to reassess the property tax for the financial year 2025 -2026 accordingly

to call for the entire records relating to the impugned reclassification of the Petitioners residential property usage as Commercial by the Respondents on the official property tax portal, and consequential demand for increased property tax for the financial year 2025-2026, in respect of Assessment No. 162/023/907035, pertaining to the Petitioners residential property situated in Survey No.564/2, Shasthri

Nagar, Kalappatti Village, Coimbatore District, comprised in Site Nos. 21/3, and to Quash the same as arbitrary and illegal and consequently direct the Respondents to restore the classification of the said Petitioners property usage as Residential for the purposes of property tax assessment and to reassess the property tax for the financial year 2025-2026 accordingly

to call for the entire records relating to the impugned reclassification of the Petitioners residential property usage as Commercial by the Respondents on the official property tax portal, and consequential demand for increased property tax for the financial year 2025-2026, in respect of Assessment No. 162/023/907034, pertaining to the Petitioners residential property situated in Survey No.564/2, Shasthri Nagar, Kalappatti Village, Coimbatore District, comprised in Site Nos. 21/1, and to Quash the same as arbitrary and illegal and consequently direct the Respondents to restore the classification of the said Petitioners property usage as Residential for the purposes of property tax assessment and to reassess the property tax for the financial year 2025 -2026 accordingly

call for the records of the impugned property tax demand in assessment No. 162/004/902397 old assessment No. 162/286503 uploaded in the Coimbatore Municipal Corporation-s website, demanding an arbitrary and exorbitant amount of Rs. 20346/-, from the files of the respondent herein, quash the same

call for the records of the impugned property tax demand in assessment No. 162/004/903516 old assessment No. 162/2811677

uploaded in the Coimbatore Municipal Corporation-s website, demanding an arbitrary and exorbitant amount of Rs. 46596/-, from the files of the respondent herein, quash the same

For Petitioner
in all petitions : Ms.Aparna Nandakumar,
in WP.Nos.10194, 4552, 4481, 4472, 4477, 11033, 11035, 11038, 12224, 12235, 12230, 12238, 12243, 12251, 12253, 12245, 12249, 12255, 12604, 31337 & 31342 of 2025
Mr.T.Saikrishnan,
in WP.Nos.12221 of 2025
Mr.S.Senthil
in WP.Nos.26937, 26939, 26941, 26942, 26944 & 26951 of 2025
Mr.N.K.Ponraj,
in WP.Nos.7619 of 2025
Mr.Kingston Jerold,
in WP.No.24189 of 2025

For Respondent
in all petitions : Mr.P.Prithvi Chopda, St.counsel
in WP.No.10194 of 2025
Mr.D.Ferdinand, St.counsel
in WP.Nos.4552, 4481, 4472, 4477, 26937, 26939, 26941, 26942, 26944 & 26951 of 2025
Mr.K.N.Umapathy, St.counsel
in WP.No.7619 of 2025
Mr.Najeeb Usman Khan, St.counsel
in WP.Nos.11033, 11035, 11038/2025
Mr.N.Velmurugan, St.counsel,
in WP.Nos.12221, 12224, 12235, 12230, 12238, 12243, 12251, 12253,

12245, 12249, 12255 of 2025
Mrs.V.Vijayalakshmi,
in WP.Nos.12604 of 2025
& WP.No.24189 of 2025 for R2 to 4
Mr.D.R.Arunkumar, St.counsel
in WP.Nos.31337, 31342 of 2024
Mr.C.Selvaraj, AGP for R1
in WP.No.24189 of 2025

COMMON ORDER

These writ petitions have been filed challenging the respective demand notices issued by the concerned respondents.

2. Petitioners' submissions:

2.1 The main contention of the petitioners was that the impugned demand notices were issued by the concerned respondents without any proper prior notice. In other words, no communication or intimation was given to the petitioner before conversion of property tax, pertaining to the petitioners' properties, from residential tariff to commercial tariff. Therefore, the demand notices were issued in violation of principles of natural justice.

2.2 Secondly, the learned counsel for the petitioners would submit that in this case, the petitioners, who have been running hostel, would not fall under the category of commercial units/premises. They are providing accommodations to the people of economically weaker section and lower middle class people. The inmates of the hostel rooms used to get lower amount of salary and hence, they will not be in a position to afford independent apartment/house/flat, etc., to reside therein.

2.3 Further, it was submitted that the recipient of service are inmates, who resides in the hostel by sharing rooms with the other inmates and they are utilising the said hostel rooms as sleeping apartments after their avocation. In such case, the room accommodation provided by the petitioners in their hostel has to be treated as a residential dwelling unit.

2.4 It was also contended that charging of taxes, such as property tax, water tax and electricity charges, has to be determined based on the usage of the premises by the recipient of service. In the event, if the inmates/residents use the premises for the purpose of commercial

activities, certainly, the said building is liable to be taxed under the commercial tariff.

2.5 As far as the present cases are concerned, all the residents in the hostels have been using their rooms as a “residence”, i.e., after their job, they will come to their rooms, whereby they will stay, sleep, eat, wash clothes, take bath, etc. In the hostel rooms, all the facilities have been provided by the petitioners, which includes the room for sleeping, washing area, bathroom, toilet and other refreshment area along with a common kitchen and dining area. Therefore, due to financial constraints, the inmates used to stay in those hostels by sharing their rooms with other inmates with an intention to reduce the cost of living.

2.6 The above aspects have not been taken into consideration by the respondents while levying the property tax and water tax under the commercial tariff. In the event, if it is levied in commercial tariff, the petitioners will pay the said property tax and water tax as per the revised/enhanced rate and subsequently, the same will be pass on to the inmates. There is no dispute on this aspect.

2.7 On the other hand, if the hostel property is treated as "residential unit" and residential tariff is levied by the respondents, ultimately, the beneficiary would none other than the recipient of the service, i.e., inmates of the respective hostels. Therefore, while levying the tax against property, the respondent is supposed to have considered the nature of usage of the said property by the recipient of service. However, in these cases, no indulgence have been given by the respondent before converting the tariff from "residential" to "commercial" and also no prior intimation was provided to the petitioner with regard to the said conversion, which is clear violation of principles of natural justice. When such being the case, the learned counsel for the petitioners requested this Court to quash all the impugned demand notice and consequently, to direct the respondents to assess the petitioners' property under the category of residence and collect the property tax, water tax and electricity charges accordingly.

2.8 To substantiate their submissions, they referred the definition of "residence" as defined in Section 2(36) of Coimbatore City Municipal

Corporation Act, 1981, (hereinafter called as "Coimbatore Act") and Section 2(23) of Chennai City Municipal Corporation Act, 1919 (hereinafter called as "Chennai Act"). They had also referred the law laid down by this Court in ***W.P.No.28486 of 2023, etc., batch,*** wherein this Court, vide ***order dated 22.03.2024,*** had categorically held that for determining the tariff based on the usage of property, it is necessary to look into the matter from the perspective of the recipient of services and not from the perspective of service provider.

2.9 Therefore, while determining tariff for the purpose of imposing property tax, it is necessary for the respondents to examine the nature of activities carried out by the residents in the said property. In these cases, the respondent treated the petitioners property as "commercial premises" by looking it from the perspective of the service provider and they have completely ignored the perspective of recipient of service. In such view of the matter, it is clear that all the impugned demand notices were issued by the respondents in a mechanical manner and the same are liable to be set aside. Hence, she requested this Court to pass appropriate orders.

3. Respondents' submissions:

3.1 Per contra, the learned counsel for the respondent would submit that in these cases, the petitioners are the hostel owners and they have been carrying on the business of leasing out their properties, i.e., hostel rooms, to the working men and women. Under these circumstances, the impugned demand notices were issued by the respondent for levying the property tax, water tax and electricity charges, by applying the commercial tariff.

3.2 If the petitioners are aggrieved over the issuance of demand notices, they are supposed to have made a statutory appeal, under Section 100 of the Tamil Nadu Urban Local Bodies Act, 1998 (hereinafter called as “1998 Act”), before the Taxation Appeals Committee. However, without filing any such appeal, now, the petitioners had approached this Court by way of these petitions.

3.3 By referring the Regulation 4(ii) of CMWSS Service Charges (Levy and Collection) Regulations, 1998, they would submit that the petitioners' properties are classified as “commercial premises”. In this

regard, they had also referred to the definition of the word “hostel” or “lodging house” as provided in Section 2(e) of the Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act, 2014 and would submit that the petitioners' premises leans towards the commercial classification for the purpose of levying property tax as per the above provisions. Hence, they would contend that the said premises were rightly considered as “commercial premises” by Corporation, CMWSSB and TANGEDCO, while imposing the property tax, water tax and electricity charges.

3.4 It was also submitted that if the contentions of the petitioners are accepted and the impugned demand notices are quashed by treating the petitioners' premises as residential unit, the respective Corporations, CMWSSB and TANGEDCO will suffer a huge revenue loss. Therefore, he prays for dismissal of these petitions by granting liberty to the petitioners to file statutory appeals before the Taxation Appeals Committee.

4. I have given conscious consideration to the submissions made

by the learned counsel for the petitioner and the learned counsel for the respondent and also perused the materials available on record, including the provisions of Coimbatore Act, Chennai Act and 1998 Act.

5. The main issues, that have to be considered in these cases, are as follows:

i) Whether the petitioners' property be treated as commercial premises for the purpose of levying property tax, water tax, water charges and electricity charges by looking from the perspective of service provider?

ii) In spite of the alternate remedy available in terms of Section 100 of the 1998 Act, whether the petitioners can file the present petitions on the aspect of violation of principles of natural justice?

6. 1st Issue:

Whether the petitioners' property be treated as commercial premises for the purpose of levying property tax, water tax, water charges and electricity charges by looking from the perspective of service provider?

6.1 As far as the 1st issue is concerned, in these cases, the

respondents had treated the petitioners' property as “commercial property” and applied “commercial tariff” while levying the property tax, water tax, water charges and electricity charges.

6.2 The petitioners herein have been carrying on the business of running the hostels for the working men and women. May be from the perspective of the petitioners, the nature of activities carried on by them can be treated as “business” and the rent received by them can be treated as “business income”, for which, they would pay income tax accordingly.

6.3 The hostels of the petitioners were rented out to various working men or women, who are from economically weaker section and below poverty line, i.e., those who are not in a position to spend more money for accommodation, viz., independent flat/house. Those category of people used to resides in hostel after their avocation by sharing the hostel rooms with other inmates and a portion of the said room will be used as sleeping apartment.

6.4 If any amount is paid by the petitioners towards property tax,

water tax, water charges or electricity charges, either under the commercial tariff or under residential tariff, the same would be passed on against the recipient of service. Thus, the burden of paying those taxes would ultimately rest with the recipient of services, i.e., inmates of the hostel rooms.

6.5 In these cases, the hostel rooms are rented out by the petitioners for working men and women, those who are utilising the same as their residence/accommodation after their avocation. In such scenario, whether it would be appropriate for the respondents to classify the said hostel rooms as commercial units and levy the taxes under commercial tariff.

6.6 Normally, to classify a property as “commercial unit”, the said property should have been put into use for any commercial activities. For example, if a person is the owner of an apartment with 10 flats, out of which, 6 apartments were rented out for residential purpose and 4 apartments were rented out for commercial purpose, then the said 6 apartments shall be consider as “residential units”, for which the

residential tariff will be applied for the purpose of levying property tax and water tax, etc., whereas, for the remaining 4 apartments, which are used for commercial activities, certainly, the commercial tariff will apply and the taxes will be collected accordingly.

6.7 In the above instance, the owner of the apartment has to treat the income, which was received by virtue of rent, as “business income” and pay the income tax for the same in accordance with law.

6.8 Therefore, while classifying the tariff of a property for the purpose of levying property tax and water tax, the respondent has to verify with regard to the nature of activities carried out in the said property. As stated above, if tenant/resident is carrying on any business activities in the premises, the same would be considered as “commercial unit” and the commercial tariff will apply. On the other hand, if the tenant is residing with family or as a single person and using the premises as sleeping apartment, then the said premises will be considered as “residential unit”, for which residential tariff will apply.

6.9 In the cases on hand, the petitioners have been running hostels for the purpose of providing accommodation to the working men/women, who are not in a position to pay more rent for an independent house/apartment/flat. After their avocation, the working men/women will go to their hostel rooms, wherein all the facilities are provided, i.e., the room for sleeping, washing area, bathroom, toilet and other refreshment area along with a common kitchen and dining area. Therefore, it is clear that due to financial constraints, the inmates used to stay in a hostel by sharing their rooms with other inmates with an intention to reduce the cost of living.

6.10 When such being the case, a different yardstick cannot be adopted for hostel owners comparing to the yardstick applied for the apartment owners. In the case of apartments, if the flats were rented out for residential purpose, the property, water taxes, water charges and electricity charges will be levied by applying residential tariff and the rent received by the apartment owners may be treated as business income or otherwise, for which, he is liable to pay income tax in accordance with law. In a similar way, the petitioners, being hostel owners, had rented out

the properties as residential units for the working men/women, those who are not in a position to afford independent house/flat. The inmates of the hostel rooms are also using the respective premises as sleeping apartments, which comes under residential usage. Therefore, as stated above, different yardsticks cannot be applied for the hostel owners and the apartment owners, since the nature of activities carried on at both the premises are one and the same.

6.11 If the contention of the respondents is accepted and different yardsticks are applied, then it would be a clear discrimination against the poor people. In other words, applying different yardsticks would result in charging twice the amount towards property tax, water tax, water charges and electricity charges for the inmates of the hostel under the pretext of classifying the hostels as commercial units. Even for the usage of water for their personal activities, such as taking bath, washing out the toilets, they are compelled to pay high rate of tax when compared to the people, who can afford to live in individual houses/apartments/bungalow, etc.

6.12 The said discrimination violates the Articles 14 and 19(1)(8) of the Constitution of India. The intention of our Legislation is not to squeeze the poor by way of imposing high rate of tax under commercial tariff and pass on the benefits to the rich by imposing low rate of tax under residential tariff for the very same nature of activities. Therefore, it is incorrect to levy double the amount towards property tax, water tax, water charges, etc., for a hostel, in which, when a person resides by treating it as a sleeping apartment. While levying tax, the respondents are supposed to have look from the perspective of recipient of service and not from the perspective of service provider. Thus, in the present cases, sharing hostel rooms by working women/men, after their avocation, is a "residential activity" and accordingly, every hostel rooms has to be treated as "residential unit", unless and otherwise if it is used for any commercial activities. While imposing taxes, such as property tax, water tax, water charges and electricity charges, every hostel room has to be verified as to whether the activities carried out therein are residential in nature.

6.13 As far as petitioners are concerned, they are in the business of

renting out their properties in the form of hostels for the working men/women and therefore, the commercial activities would not come into picture, i.e., the activities carried out in the hostel rooms by the recipients of service is only the residential activities. In other words, the hostel rooms are only used as residences/sleeping apartments by the inmates. Therefore, it is clear that the usage of petitioners' properties would fall within the purview of “residential premises, since no commercial activities are carried out therein.

6.14 At this juncture, it would be apposite to extract the definition of “residence” as provided in three different Acts, which reads as follows:

Coimbatore City Municipal Corporation Act, 1981:

2(36) residence or reside.- A person is deemed to have his “residence” or to “reside” in any house or hut if he sometimes uses any portion thereof as a sleeping apartment, and a person is not deemed to cease to reside in any such house or hut merely because he is absent from it or has elsewhere another dwelling in which he resides,

if he is an liberty to return to such house or hut at any time and has not abandoned his intention of returning ;

Chennai City Municipal Corporation Act, 1919:

2(23) residence or reside.- A person is deemed to have his "residence" or to "reside" in any house or hut if he sometimes uses any portion thereof as a sleeping apartment, and a person is not deemed to cease to reside in any such house or hut merely because he is absent from it or has elsewhere another dwelling in which he resides, if he is an liberty to return to such house or hut at any time and has not abandoned his intention of returning ;

Tamil Nadu Urban Local Bodies Act, 1998

2(34) "residence"— "reside" a person is deemed to have his "residence" or to "reside" in any house or hut if he sometimes use any portion thereof as a sleeping apartment, and a person is not deemed to cease to reside in any such house or hut merely because he is absent from it or has elsewhere another dwelling in which he resides, if he is at liberty to return to such house or hut at any time and has not abandoned his intention of returning ;

6.15 A reading of the above would show that the word "residence" has been defined in a similar fashion in all the three Acts. As per the said

definition, even in a house or a hut, if a person uses any portion thereof as a sleeping apartment, it will not lose its status as “residence”, due to his absence or since he is having another dwelling unit, in which he resides, if he is at liberty to return to such house at any time and has not abandoned his intention of returning. Hence, if a portion of the said house or hut is used as a sleeping apartment, the said house/hut has to be considered as “residence”.

6.16 In such case, as per the above definition, the hostel rooms have been used as sleeping apartments by the inmates. Thus, at any cost, the inmates of the respective hostels will not lose their status as “residents” of the said premises. Accordingly, the hostel rooms have to be treated as a “residential premises” even if the inmates are having another dwelling house elsewhere. Hence, in terms of the above definitions also, the petitioners' properties have to be considered as residential premises, for which, the respondent is supposed to have determined the property tax, water tax, water charges, etc., by applying residential tariff.

6.17 The respondents had referred the Regulation 4(ii) of Chennai Metropolitan Water Supply and Sewerage Board, wherein it was stated that the commercial premises includes "private hostels". At this juncture, it is also important to look into the definition of "domestic residential premises" as provided in Regulation 7 therein, which reads as follows:

> *7. "DOMESTIC RESIDENTIAL PREMISES" means Dwelling units, Flats, Line of Houses, Residential Govt.Quarters, Raj Bhavan, Residences of Ministers, Judges and other High Dignitaries, Legislators Hostel, Hostel of Colleges and Schools recognised by State of Central Govt. Places of orphanage recognised by Govt. and includes premises used exclusively for religious purpose and Old age homes.*

6.18 A reading of the above definition makes it clear that the "dwelling unit" will come under the Domestic Residential Premises.

6.19 Now, it would be apposite to extract Regulation 4(ii) of the Chennai Metropolitan Water Supply and Sewerage Board, which reads as follows:

> *4. "Commercial Premises" means*
> *(i).....*
> *(ii) Premises used fully or partly as Theatres, Hotels, Boarding Houses, Lodges, Clubs, Private Hospitals,* ***Private Hostels,*** *Kalyanamandapams, Clinics*

with inpatient facility, Swimming Baths, Places for keeping animals, vehicles service station, Nurseries, etc.

*[**Emphasis supplied]*

6.20 As per Regulation 4(ii), the commercial premises includes private hostel. The said provision of Regulation 4(ii) will apply only if the private hostels are used as commercial premises. As long as the hostels, including private hostels, are used for residential purpose by the inmates, it would only fall under the category of Regulation 7 instead of 4(ii). In these cases, all the recipient of service of the petitioners, i.e., inmates of the hostel rooms, have been using the hostel only for the purpose of residential activities. In such case, the petitioners' hostel will come under the category of Regulation 7, i.e., Domestic Residential Premises and thus, the application of Regulation 4(ii) will not come into picture.

6.21 That apart, the definition of the word “hostel” or “lodging house” as provided in Section 2(e) of the Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act, 2014, was also referred by

the respondents. The said definition is extracted hereunder:

> *2(e) "hostel" or "lodging house" means a building in which accommodation is provided for women or children or both, either with boarding or not;*

6.22 The aforesaid Act is a special Act enacted in order to protect the interest of women and children. Therefore, the above definition has to be looked into from that perspective alone and the same will not be applicable for the purpose of imposing the property tax and water tax at the rate of commercial tariff.

6.23 As stated above, if the petitioners' hostels were treated as commercial unit, it will be a clear discrimination against the poor. The Legislation was not intend to charge more for poor and keep the rich in comfortable position by levying tax at lower rate of tariff. Even for example, if commercial tariff is applied, a person residing in hostel has to pay double the amount towards property tax and water tax, whereas, the person, living in bungalow/apartment, who is able to spend higher amount towards rent, will be eligible for payment of property tax, water tax, water charges, etc., at concessional rate, which is applicable for

residential unit. If the respondents' contentions are accepted, the poor and lower middle class people, who are living in hostel, will be deprived of the said concession, and this discrimination is not permissible under the Constitution of India.

6.24 In view of the above discussions, it is clear that activities carried on at the petitioners' hostels are only residential in nature and it is not commercial. Therefore, the 1st issue is hereby answered by holding that the petitioners' property cannot be considered as commercial property and thus, the commercial tariff will not apply for the petitioners' properties.

7. Issue No.2:

In spite of the alternate remedy available in terms of Section 100 of the 1998 Act, whether the petitioners can file the present petitions on the aspect of violation of principles of natural justice?

7.1 In these cases, the legal issues were raised on the aspect as to whether the activities carried on by the petitioner is “commercial” or “residential” in terms of the provisions of aforesaid three Acts, viz.,

Coimbatore Act, Chennai Act and 1998 Act. Further, the issue of violation of principles of natural justice was also raised by the petitioner.

7.2 In the light of the above decision arrived by this Court by holding that the activities carried on at the petitioners' hostels are only residential in nature and it is not commercial, it is clear that certainly, the said issue can be decided by this Court in sitting under Article 226 of Constitution of India, by interpreting the provisions of law.

7.3 That apart, in these cases, no documentary evidences have been produced by the respondents to substantiate that the prior communication has been sent to the petitioners with regard to the levying of property tax based on the commercial tariff or about the conversion of the petitioners' property from residential tariff into commercial tariff. In the absence any documentary evidences, it is clear that all the impugned demand notices were issued in violation of principles of natural justice, i.e., without providing any opportunity to the petitioners to explain their case.

7.4 In view of the above, though an alternate remedy is available

for the petitioner in terms of Section 100 of 1998 Act, they can also agitate before this Court by way of filing writ petitions on the aspect of violation of principles of natural justice and there is no bar for the petitioners to approach this Court without filing statutory appeal, which will be filed only on the factual aspects and not on legal issues. When a legal issue raised, the same shall be entertained by this Court by invoking the powers available under Article 226 of the Constitution of India. Accordingly, the 2nd issue is also answered.

8. When a similar issue arise in GST Matter, the same petitioners filed a batch of writ petition before this Court in ***W.P.No.28486 of 2023, etc., batch*** (referred supra). In the said batch of writ petitions, this Court, ***vide order dated 22.03.2024***, had arrived at a conclusion by holding that the nature of activities carried on by the petitioners therein for the purpose of levying GST has to be considered/looked into from the perspective of the usage of premises by the recipients of service and it is immaterial to consider the aspect as to how the petitioners, being the owners of the premises, are considering the receipt of rent from the tenant and treating the same in his books of account. Further, in that case,

this Court had arrived at a categorical conclusion that the hostel rooms were used by the inmates only as a sleeping apartment and the same would fall under the category of residential premises. The relevant portion of the order is extracted hereunder:

> *32. Prior to the implementation of the GST, only commercial properties that were let out, were subjected to service tax, even if a residential property was used for commercial purposes. Service tax was charged at a rate of 15% of the rent for commercial properties. However, rental income from residential properties did not attract service tax. This meant that landlords who owned commercial properties and rented them out were required to register for service tax and pay the tax on the rental income received. On the other hand, landlords who owned residential properties and rented them out were not required to register for service tax or pay tax on the rental income they received.*
>
> *33. On introduction of GST, the tax regime for rental income has undergone a significant change. Under the GST regime, renting both commercial and residential properties is treated as a taxable supply of service. GST is applicable on rental income received by landlords as well as rent paid by tenants.*
>
> *34. However, the Central Government, on being satisfied that it is necessary in the public interest and on the recommendation of the GST Council, has issued Notification No.12/2017-Central Tax (Rate) giving exemption from levying GST on various services described item wise in the Notification. For our purpose, it relates to Entry No.12 under 'Heading 9963 or Heading 9972' by which, an unconditional exemption was provided to renting of a residential dwelling to any person when the same is used for residence. Meaning thereby, GST was payable in the case of renting of a residential dwelling to any person when the same is used for the commercial purpose.*
>
> *35. Later, vide notification no. 04/2022- Central Tax (Rate) dated 13th July 2022, said Sl. No. 12 of notification no. 12/2017-Central Tax (Rate) dated 28th June 2017 was amended. According to the amendment, after the words 'as residence', the words 'except where the residential dwelling is rented to the registered person' has been added. Hence, post issuance of notification no. 04/2022- Central*

Tax (Rate) dated 13th July 2022, Sl. No. 12 as effective from 18th July 2022 will read as under –

Heading	***Description of service***	***Rate***	***Condition***
Heading 9963/ Heading 99721	*Services by way of renting of the residential dwelling for the use as a residence except where the residential dwelling is being rented to the registered person*	*NIL*	*NIL*

36. Hence, with effect from 18th July 2022, GST applicability on renting of residential dwelling will be as follows:

Particulars	***GST position post 18th July 2022***
Renting of residential dwelling for residential purpose to the person registered under GST	*Taxable from 18th July 2022 [Exempted from 1st July 2017 till 17th July 2022 and Taxable from 18th July 2022]*
Renting of residential dwelling for residential purpose to the person not registered under GST	*Exempted from 1st July 2017*
Renting of residential dwelling for commercial purpose to the person registered under GST	*Taxable from 1st July 2017*
Renting of residential dwelling for commercial purpose to the person not registered under GST	*Taxable from 1st July 2017*

37. On perusal of the above entry 12, it is clear that the services provided by way of renting of residential dwelling for residential purpose are covered under the exemption.

38. In the present case, in order to claim the benefit of the exemption conferred by Entry 12 of Exemption Notification No.12/2017, dated 28.06.2017, the burden is on the petitioners to prove that what they provided to the girl students and working women by way of renting out hostel rooms would qualify the condition, i.e. services by way of renting of residential dwelling for use as residence' and thereby would fall within the purview of Entry No.12 of the Exemption Notification No.12/2017-Central Tax (Rate) dated 28.06.2017. In the subject Notification No.12/2017 CT(R), dated 28.6.2017, Clause (zz) refers 'renting in relation to immovable property' means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.

39. Further, in the said notification for renting of properties

by the hotel, motel, inn, guest house, camp site, lodge, house boat, or like places meant for temporary stay has not been exempted. However in the Entry No.12 of Exemption Notification No.12 of 2017, the services provided by way of renting residential dwelling for using the same as residence has been exempted. When the said notification was passed, the Legislature had intentionally not included the hostels so as to bring it into the tax net. However, only in the clarification regarding GST in respect of certain services issued by the Ministry of Finance Department dated 12.02.2018, the following issue was raised:

> *Is the hostel, provided by the Trust to students, will be covered within the definition of Charitable Activities and thus, exempted as per the Exemption Notification No.12 of 2017, for which they have provided the clarification as follows:*
>
> *The hostel accommodation services do not fall within the ambit of Charitable Activities as defined in paragraph No.2(r) of the Exemption Notification No.12 of 2017. However the services provided by way of hotel, motel, inn, guest house, camp site, lodge, house boat, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempted. Thus, accommodation service in hostels, including trust, having declared tariff below one thousand rupees per day is also exempted.*

40. By referring the above, the 2nd respondent came to the conclusion that the hostel service will not fall under the exempted category of Entry No.12 of Exemption Notification No.12 of 2017. In the Entry No.12 of Exemption Notification No.12 of 2017, it has been mentioned about services provided by way of renting of residential dwelling for use as residence. Further, in the Entry No.14 of Exemption Notification No.12 of 2017, there is a specific mention with regard to the service provided by hotel, motel, inn, guest house, camp site, lodge, house boat, for which, they had granted exemption up to certain limit. Subsequently the said exemptions has been withdrawn. Hence, the provision of hostel services to the working women students, etc., will squarely falls within the purview of Entry No.12 of Notification No.12 of 2017.

41. Now, let me analyze the meaning of "residential dwelling unit" from the perspective of the working women, students, professionals, etc.

42. As far as the meaning of the "residential dwelling unit" is concerned, this Court feels that it would be apposite to refer the following judgments, wherein the meaning of the "residential dwelling unit" has been discussed and explained by various Courts:

*i) Delhi High Court in "**V.L.Kashyap versus R.P.Puri**" rendered in Civil Revision Appeal Nos.322. 326, etc., vide order dated 22.09.1976, wherein, in para 25, it has been held as under:*

> *"25. The rule of law deducible from the aforesaid decisions is that the work 'dwelling house' is synonymous with residential accommodation as distinct from a house of business, warehouse, office, shop, commercial or business premises. The word 'house' means a building. It would include the out-houses, courtyard, orchard, garden etc. which are part of the same house, but it cannot include a distinct separate house."*

*ii) United Kingdom House of Lords in **"Uratemp Ventures Limited versus Collins" (2001) 3 WLR 806,** wherein, the term 'dwelling house' has been interpreted to mean even a single room as part of a house.*

*iii) High Court of Bombaby in **"Bandu Ravji Nikam versus Acharyaratna Shikshan Prasark Mandal"** (W.P.No.4194/1989, dated 12.09.2002). In this case, a suit for eviction of a tenant was contested by the contesting tenant that the landlord was attempting to evict him in order to lease out the premises to a hostel and that hostel accommodation amounted to 'non residential accommodation' which was impermissible under Section 25 of Bombay Rent Control Act. The High Court has held that by the very nature of the use of students hostel, it is only a residential user as hostel, is a house of residence or lodging for students and that just because the hostel owners charge some amount from the students, such accommodation cannot be treated as commercial or non residential.*

*iv) Karnataka High Court in "**Taghar Vasudeva Ambrish versus Appellate Authority for Advanced Rulings, Karnataka and Others"** (W.P.No.14981/2020, dated 7.2.2022), wherein, it has been observed as under:*

> *"Thus, it is evident that the expression 'residence and 'dwelling' have more or less the connotation in common parlance and therefore, no different meaning can be assigned to the expression 'residential dwelling' as it cannot be held that the same does not include hostel which used for residential purposes by students or working women".*
> *While observing so, the Karnataka High Court has ultimately held that the service provided by the petitioner therein, i.e. leasing out residential premises as hostel to students and working professionals is covered under Entry 13 of Notification No.9/2017 dated 28.09.2017, namely, services by way of renting of residential dwelling for use as residence issued under the Act and the petitioner is held entitled to benefit of exemption notification.*

43. In other words, the exemption was being given to any person who may engage in renting of residential dwelling used as residence. It is further not specifically set out in the notification what would be considered as a short stay or long stay. This exemption benefit was available when landlord rented out to corporates/tenants who in turn rent out to students/working professionals/others. The same exemption was also available when renting was done as residence to the students by corporate PG/other commercial entities.

44. In ***"Bandu Ravji Nikam versus Acharyaratna Shikshan Prasark Mandal"*** *reported in* ***MANU/MH/1015/2002,*** *the Bombay High Court has held as under in para 10:*

> *"10. ... Undoubtedly, "hostel" is nothing but a house of residence or lodging for students. Just because the respondent may charge some amount from the students for providing that facility, may not necessarily mean that it is a commercial or non-residential user. Further, there is perceptible difference between "hotel or lodging house" and 'student hostel', though in both cases accommodation may be provided on monetary consideration. In the latter, the occupant cannot claim to be a "tenant" or a "licensee" nor can he claim protection of the provisions of the Bombay Rent Act. Whereas, in the case of the former, part III of the Act would apply. Besides, it will be useful to notice the observations of this Court in para 20 of the decision in the case of Kishinchand (supra). This court has held that the word "residence" may receive a liberal meaning, for a man's residence is very often the place where he sleeps at night. This court in the said case adverted to the decision of the Privy Council (AIR 1937 PC 46), wherein it is observed that "there is no reason for assuming that it contemplates only permanent residence and excludes temporary residence". Reference is also made to wherein it is observed that, "Residence only connotes that a person eats, drinks and sleeps at that place and that it is not necessary that he should own it".*
>
> *This Court then proceeded to hold that the legislature is using words "non-residential purpose" in Section 25 did not intend to prohibit use of a building containing a residential flat for the purposes of construction of Marriage Halls, Charitable Hospitals and "quarters" and garages for Doctors and Nurses. As in the present case, "Students hostel" was also to be used for sleeping, eating, studies etc. temporarily if not permanently day to day, it cannot be described as "non-residential" use within the meaning of Section 25 of the Act. Accordingly, if the suit premises were to be used as students hostel, then surely it would be for the residential purpose of the students of the College run by the respondent trust. In that case also, the respondent trust would be entitled to claim possession of the suit premises for the requirement of the trust. If this be so, there is no force in the*

argument pressed into service that no decree could be passed as the nature of requirement would be prohibited by Section 25 of the Act."

45. It is well settled that when the word is not defined in the Act itself, it is permissible to refer to the Dictionaries to find out the general sense in which the word is understood in common parlance.

46. Therefore, it may also be referred to the meaning of the expression 'residence' and 'dwelling' as defined in Concise Oxford English Dictionary 2013 Edition as well as Blacks Law Dictionary 6th Edition to ascertain its meaning in common parlance and in popular sense which read as under:

The Concise Oxford Dictionary:

***Domicile**: 1. the country in which a person has permanent residence.*

2. the place at which a company or other body is registered.

***Residence:** 1. the fact of residing somewhere.*

2. a person's home.

3. the official house of a government minister or other official figure.

Blacks Law Dictionary:

***Residence:** Place where one actually lives or has his home; a person's dwelling place or place of habitation; an abode; house where one' home is; a dwelling house.*

***Dwelling:** The house or other structure in which a person or persons live; a residence; abode; habitation; the apartment or building, or a group of buildings, occupied by a family as a place of residence. Structure used a place of habitation.*

47. Further in common parlance, 'residential dwelling' means any building, structure, or part of the building or structure other than offices or factories, that is used or intended to be used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, to the exclusion of all others.

48. Under Section 2(e) of the Tamil Nadu Hostels and Home for Women and Children (Regulation) Act, 2014), the term 'hostel' or lodging house' is defined to mean a building in which accommodation is provided for women or children or both, either with boarding or not.

49. Thus, it is evident that the expression 'residence' and 'dwelling' have more or less the connotation in common parlance

and therefore, no different meaning can be assigned to the expression 'residential dwelling' and accordingly, this Court is of the view that the same does include hostel which is used for residential purposes by students or working women.

50. A perusal of the impugned Rulings passed by the second respondent, this Court finds that the authority has primarily concluded that hostel building cannot be considered as residential dwelling, but a non-residential complex, based on the following observations, viz.,

> *i) that the petitioners have rented out the premises with the intention of providing hotel accommodation which is more akin to sociable accommodation rather than what is typically considered as residential accommodation;*
>
> *ii) that a single house with two or more rooms where normally a single family resides, is subdivided and let out to different persons and rent being collected on per bed basis with bundle of other services against a consideration clearly constitutes a business of supplying accommodation services along with ancillary services and thus on this count, the hostel accommodation does not qualify as a residential dwelling and the question of using the same as residence does not arise;*
>
> *iii) that though the accommodation and residence seems to be synonymous, there is subtle difference between the two and the hostels are nothing but accommodation which provide temporary lodging to the inmates by converting a residential dwelling into a hotel and providing hotel service, which eventually makes the same dwelling non-residential' and taxable and in the instant case, the residential homes have been converted into a commercial purpose and thereby losing its status as 'residence dwelling';*
>
> *iv) that in order to run hostel the license from Shop and establishment Act is required and it is not required for residence dwelling for use as residence.. Shops and establishment license are required for commercial establishment. Hence hostels falls under commercial establishment and hence GST should be applicable on hostel charges.*
>
> *v) that the purpose and objective of the notification is nothing but to avoid taxing on residential properties taken on rent by family or individuals and the benefit of exemption is not extended to the premises which do not qualify as residential dwelling for use as residence;*
>
> *vi) that the 'hostel accommodation' is not equivalent to 'residential accommodation' and hence, the services supplied by the petitioners would not be eligible for exemption under Entry 12 of the Exemption Notification.*

51. From the above, it is clear that the Ruling Authority/2nd respondent herein, has mainly compared the hostel premises on par with hotel premises and the intention of the petitioners in renting out the premises in the name of hostels, is nothing but providing hotel accommodation and it does not qualify as residential dwelling for use as residence. The 2nd respondent has not ventured upon to find out whether the accommodation provided by the petitioners by renting out the hostel rooms to the girl students and working women, will fall within the purview of 'residential dwelling for use as residence' and whether the inmates of the hostels are using the premises as residential dwelling or as commercial purpose. In fact, the term 'services by way of renting of residential dwelling for use as residence' contained in the exemption Notification, is very clear that the ***services provided by way of renting of residential dwelling for residential purpose*** *are covered under the exemption. Therefore, the 2nd respondent ought to have dealt with the matter in regard to the services provided by the petitioners by renting out the hostel rooms to the girl students and working women and whether such services are in the nature of residential or commercial in order to find out whether the petitioners are entitled to the exemption. But unfortunately, the 2nd respondent has dealt with the matter pertaining to the building/premises let out by the petitioners and compared the same with that of the hotels and came to the conclusion that the building/premises rented out by the petitioners are not residential dwelling for use as residence. Therefore, this Court is of the view that the impugned Ruling passed by the 2nd respondent, is not sustainable and the same is liable to be set aside.*

52. In the present case, it is not in dispute that the inmates of the respective hostels run by the petitioners are the girl students and the working women who are not registered persons and using the premises as their residence, for which, they are paying fee, which can be termed as rent and it is not the case of the respondents that the inmates are carrying on any commercial activities in the rented premises or using the same for commercial purpose. That apart, the inmates of the room also using the common kitchen and sharing the foods as their own. Admittedly, GST is not applicable if a residential property is rented out to any persons in their personal capacity and for use as their own residence. In other words, if a residential property is rented out, that too for residential purpose, then the rental income derived from such property does not attract GST. However, if a person rents out any immovable property for doing business purposes, it would attract GST at a rate of 18%. Assuming

for a moment that a landlord owns a building consisting of two rooms and a kitchen and attached bathrooms and if he gives it to a family consisting of four members for residential purpose, on a monthly rent of Rs.20,000/- plus 2,000/- towards maintenance and other charges, then no GST will attract. While so, if four girl students or four working women join together and take a house on rent by bearing the rent at Rs.5,500/- each, they are not liable to pay GST.

53. If the same 4 students are staying in a hostel room and paying rent where they are using the room allotted to them as their residential dwelling unit, which includes kitchen, wash room, cots and beds, so as to enable them to prepare food and wash clothes etc., while so, the said staying of those four students in a hostel cannot be excluded from the purview of residential dwelling and bring the same under the ambit of GST. As far as the said four girl students staying in the Hostel is concerned, that hostel room is the dwelling unit for them. Thus, the word "residential dwelling" referred in Entry No.12 of the Exemption Notification No.12 of 2017 would include the hostel facilities provided by the petitioners to the working women, students, professional, etc. For the working women and professionals also, the said hostel room is residential dwelling unit for them.

54. To live, every person must have the residential dwelling. The the hostel rooms are the residential dwelling units for the girl student and working women, etc. The residential dwelling varies from person to person. As far as the homeless people are concerned, the residential dwelling will be wherever they are residing such as public roads, streets or in any other places and except the same, no other places can be provided, unless and otherwise if the Government has accommodated those people in a home, where they are maintaining the same for homeless. Therefore, when for the homeless persons, the residential dwelling will be the places wherever they are residing, where, even they do not have cooking, washing and toilet, etc., facilities by itself it does not mean that their place is not a residential dwelling. For their sake of convenience, they reside in one place and used to get food and do washing and other activities from different places. If they are accommodated in a home provided by the Government for the homeless people, the said premises/hostel will be their residential dwelling and therefore it depends upon the status and the lifestyle of each person, the nature of residential dwelling will vary. Merely because the persons are staying in hostel rooms due to their financial condition, the same will not take away the status of the said hostel room as residential

dwelling for the inmates of the room, because after their avocation, they have been staying, sleeping, eating, washing, etc in the hostel rooms alone.

55. As per the 2nd respondent's perspective, a working woman, who is drawing the salary of around a sum of Rs.15,000/- to Rs.20,000/- and paying hostel rent for around a sum of Rs.6,000/- will not be exempted from GST, whereas a Manager, who is working in a same office and can afford to pay around a sum of Rs.30,000/- to Rs.50,000/- as rent will be exempted from GST by citing the reason that the hostel accommodation would fall within the purview of GST. However, it is not the intention of the Legislature to tax the poor people. The meaning of "residential dwelling" mentioned in the Entry No.12 of Exemption Notification No.12 of 2017 would cover both the poor and rich people.

56. Ultimately, the Authorities have to look into the aspect as to whether the particular place is a dwelling unit or not. When such being the case, since the hostellers are staying in the room for months together, it cannot be construed as non-residential unit and certainly it is a residential dwelling as provided in the Entry No.12 of Exemption Notification No.12 of 2017. Thus, this Court has no hesitation to hold that the 'hostel services' provided by the petitioners would squarely fall within purview of Entry No.12 of Exemption Notification No.12 of 2017. Further, in the present case, no commercial activities can be attributed against the owners of the hostels since they have been providing only 'residential accommodation' to the girl students, working women, etc., who are using the 'hostel premises' as their residence and not for business purpose by using the common kitchen and sharing the food among themselves.

*57. Further, in **Taghar Vasudeva Ambrish** case (referred supra), the Hon'ble Division Bench of Karnataka High Court had elaborately discussed when a similar issue came up for consideration and thus it would be apposite to extract the relevant portion of the said order as follows:*

> ***EXEMPTION NOTIFICATION:***
>
> *9. We have considered the submissions made on both sides and have perused the record. The Act is an Act to make provision for levy and collection of tax on inter-state supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto. In exercise of powers under the Act, the Central Government has issued exemption notification and has granted exemption from payment of goods and services tax in respect of services mentioned therein. The aforesaid notification includes the*

service of renting residential dwelling for use as residence. The relevant extract of the notification is extracted below for the facility of reference:

In exercise of powers conferred by [sub Section (3) ad sub Section (4) of Section 5, sub-Section (1) of Section 6 and clause (xxv) of Section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), read with sub-Section (5) of Section 15 and Section 148 of the Central Goods and Services Tax At, 2017 (12 of 2017)], the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the inter-State supply of services of description as specified in column (3) of the Table below from so much of the Integrated Tax leviable thereon under Sub-Section (1) of Section 5 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified in the corresponding entry in column (5) of the said Table, namely:-

Sl.No.	*Chapter, Section, Heading, Group or Service Code (Tariff)*	*Description of Services*	*Rate (per cent)*	*Condition*
(1)	*(2)*	*(3)*	*(4)*	*(5)*
13	*Heading 9963 or Heading 9972*	*Services by way of renting of residential dwelling for use as residence*	*Nil*	*Nil*

LEGAL PRINCIPLES:

10. The issue with regard to interpretation of exemption notification is no longer res integra and the Constitution Bench of the Supreme Court in 'DILIP KUMAR AND COMPANY AND OTHERS while dealing with the reference pertaining to interpretation of an exemption notification, has answered the reference in the following terms:

66.1 Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.

66.2 When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject / assessee and it must be interpreted in favour of the revenue.

66.3 The ratio in sun Export case is not correct and all the decisions which took similar view as in sun Export case stand overruled.

The aforesaid principles pertaining to interpretation of exemption notification were reiterated by Supreme Court in 'THE STATE OF MAHARASHTRA Vs. SHRI VILE PARLE KELVANI MANDAL & ORS'. 2022 SCC ONLINE SC 18.

11. It is well settled rule of Statutory Interpretation of fiscal statues that the words used therein if not defined in the statute have to be interpreted in their popular sense. As per Craies on statute law 6th edition, the popular sense means the sense in which people conversant with the subject matter with which the statute is dealing, would attribute it. (SEE: COMMISSIONER OF CENTRAL EXCISE, MUMBAI VS. FIAP INDIA PVT. LTD. & ANR. (2012) 9 SCC 332 and COMMISSIONER OF CENTRAL EXCISE VS. MADHAN AGRO INDUSTRIES INDIA PRIVATE LIMITED (2018) 15 SCC 733). Thus, the expression 'residential dwelling' has to be understood according to its popular sense.

REASONS:

12. In the backdrop of aforesaid well settled legal principles, we may advert to the facts of the case in hand. Entry 13 contained in the exemption notification is unambiguous and is clear. It provides for exemption from payment of Integrated Goods and Service Tax in respect of 'services by way of renting of residential dwelling by way of use as residence'. The burden is of course on the petitioner to show that his case comes within the parameters of the exemption notification. The expression 'residential dwelling' has not been defined. It is pertinent to note that under the erstwhile service tax law, the expression 'residential dwelling' was defined in paragraph 4.13.1 of Taxation of Services: An Education Guide dated 20.06.2012 which was issued by Central Board of Indirect taxes and Customs which is reproduced below for the facility of reference:

4.13.1 What is a 'residential dwelling'?

The phrase 'residential dwelling' has not been defined in the Act. It has therefore to be interpreted in terms of the normal trade parlance as per which it is any residential accommodation, but does not include hotel, motel, inn, guest house, camp - site, lodge, house boat, or like places meant for temporary stay.

Thus in the aforesaid education guide issued by Central Board of Indirect Taxes and Customs which contains clarifications, it is provided that in normal trade parlance residential dwelling means any residential accommodation and is different from hotel, motel, inn, guest house etc. which is meant for temporary stay. The aforesaid clarification which is issued by the Board, in the absence of anything to the contrary in the Act, binds the Respondent.

13. It is noteworthy that the accommodation which is used for the purposes of the hostel of students and working women is classified in residential category in the Revised Master Plan 2015 of Bangalore City. The Supreme Court in KISHORE CHANDRA SINGH VS BABU GANESH PRASAD BHAGAT AIR 1954 SC 316 has held that expression residence only connotes that a person eats, drinks and sleeps at that place and it is not necessary that he should own it. The

aforesaid decision was referred to by Bombay High Court in BANDU RAVJI NIKAM SUPRA. The hostel is used by the students for the purposes of residence. The students use the hostel for sleeping, eating and for the purpose of studies for a period ranging between 3 months to 12 months. In the hostels, the duration of stay is more as compared to hotel in guest house, club etc.

14. It is well settled that when the word is not defined in the Act itself, it is permissible to refer to the dictionaries to find out the general sense in which the word is understood in common parlance. (SEE: MOHINDER SINGH VS STATE OF HARYANA AIR 1989 SC 1367 and COMMISSIONER OF CENTRAL EXCISE , DELHI vs. ALLIED AIRCONDITIONING CORPN. (REGD) (2006) 7 SCC 735). Therefore, we may also refer to the meaning of the expression 'residence' and 'dwelling' as defined in Concise Oxford English Dictionary 2013 Edition as well as BLACKS LAW DICTIONARY 6th Edition to ascertain its meaning in common parlance and in popular sense which read as under:

The Concise Oxford Dictionary:

Domicile: 1. the country in which a person has permanent residence.

2. the place at which a company or other body is registered.

Residence: 1. the fact of residing somewhere.

2. a person's home.

3. the official house of a government minister or other official figure.

Blacks Law Dictionary:

Residence- Place where one actually lives or has his home; a person's dwelling place or place of habitation; an abode; house where one' home is; a dwelling house.

Dwelling- The house or other structure in which a person or persons live; a residence; abode; habitation; the apartment or building , or a group of buildings, occupied by a family as a place of residence. Structure used a place of habitation.

Thus, it evident that the expression 'residence' and 'dwelling' have more or less the connotation in common parlance and therefore, no different meaning can be assigned to the expression 'residential dwelling' and it cannot be held that the same does not include hostel which used for residential purposes by students or working women.

15. The twin questions which need to be answered in order to ascertain whether the service provided by the petitioner is covered under exemption notification are: (i) What is being rented? (ii) The purpose for which the residence is used for. Firstly, the residential dwelling is being rented, as the hostel to the students and working women fall within the purview of residential dwelling as the same is used by the students as well as the working women for the purposes of

residence. Secondly, the residential dwelling is being used for the purposes of residence. Thus, the aforesaid questions are required to answered in favour of the petitioner. It is also worth mentioning that the notification does not require the lessee itself use the premises as residence. Therefore, the benefit of exemption notification cannot be denied to the petitioner on the ground that the lessee is not using the premises. Similarly, the finding recorded by AAAR Karnataka that the hostel accommodation is more akin to 'sociable accommodation' is unintelligible and is not relevant for the purposes of determining the eligibility of the petitioner to claim the benefit under the exemption notification.

16. So far as the submission that the petitioner is registered as commercial establishment under the Karnataka Shops and Commercial Establishment Act, 1961 or that a trade licence has been issued by BBMP, suffice it to say that it is wholly irrelevant for the purposes of determining the eligibility of the petitioner under the exemption notification.

17. In view of the preceding analysis, the order dated 31.08.2020 passed by the AAAR Karnataka is quashed and it is held that the service provided by the petitioner i.e., leasing out residential premises as hostel to students and working professionals is covered under Entry 13 of Notification No.9/2017 dated 28.09.2017 namely 'Services by way of renting of residential dwelling for use as residence' issued under the Act. The petitioner is held entitled to benefit of exemption notification.

In the result, the writ petition is allowed."

58. In view of the above finding and by following the law laid down in the above judgement by the Hon'ble Karnataka High Court, this Court is of the considered view that the 'hostel services' provided by the petitioners to the girl students and working women will squarely amount to the 'residential dwelling' and accordingly, the same will be squarely covered under the Entry No.12 of Exemption Notification No.12 of 2017.

*59. The Hon'ble Supreme Court, in the case of "**Collector of Central Excise v. Parle Exports (P) Ltd., [1989] 1 SCC 345 at p. 357** has suggested that in interpreting the scope of any notification, the authority has first to keep in mind the object and purpose of the notification and all parts of it should be read harmoniously in aid of, and not in derogation, of that purpose.*

*60. In the case of **"Government of Kerala & Anr. v. Mother Superior Adoration Convent"** (Civil Appeal No. 202 of 2012 and others", decided on March 1, 2021), the Hon'ble Supreme Court upheld the judgment passed by the Hon'ble Kerala High Court allowing the exemption of tax on buildings used as residential quarters for nuns, priests or hostel accommodation for*

students. It has been held as under:

> *"An exemption provision should be liberally construed in accordance with the object sought to be achieved if such provision is to grant incentive for promoting economic growth or otherwise has some beneficial reason behind it."*

61. Even on adopting the purposive interpretation having regard to the object and intent of the present exemption Notification, this Court finds that the purport and object of the legislation in issuing the present Notification is only to give exemption towards the services which are in residential nature and not towards commercial nature and the premises should be of residential dwelling for use as residence. The purpose of exemption given in the Notification is only to lessen the burden of tax on the dwellers, who are the tenants/occupants of the residential premises taken on rent.

62. In the present case, the imposition of GST on the Hostel accommodation should be viewed from the perspective of the recipient of service and not from the perspective of service provider. However, the 2nd respondent has dealt with the entire issue as if GST is going to be imposed on the revenue of the service provider and he is going to pay the same from and out of his pocket. On the other hand, the imposition of GST is only on the recipient of service and the GST is going to be collected only from the recipient of the service and not from the service provider. As far as service provider is concerned, he is collecting the GST from the recipient of the service and making deposit with the Central Government.

63. While adverting to the imposition of GST on hostel accommodation, it has to be looked into as to whether the inmates of the hostel rooms, are using the premises as their residential dwelling or commercial purpose since renting of residential unit attracts GST only when it is rented for commercial purpose. So, in order to claim exemption of GST, the nature of the end-use should be 'residential' and it cannot be decided by the nature of the property or the nature of the business of the service provider, but by the purpose for which it is used i.e. 'resident dwelling' which is exempted from GST. Therefore, this Court is of the considered view that the issue of levy of GST on residential accommodation should be viewed from the perspective of recipient of service and not from the perspective of service provider, who offers the premises on rental basis.

> *64. In the light of the above discussion, it is clear that the renting out the hostel rooms to the girl students and working women by the petitioners is exclusively for residential purpose, this Court is of the considered view that the condition prescribed in the Notification in order to claim exemption, viz., 'residential dwelling for use as residence' has been fulfilled by the petitioners and thus the said services are covered under Entry Nos.12 and 14 of the Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017, the petitioners are entitled to be exempted from levy of GST.*

9. Even in the above case, this Court has already laid down the law that the hostel rooms, which were used by working men/women or student as sleeping apartment after their avocation, has to be considered as “residential unit” and the same yardstick will squarely apply in the present case also.

10. In view of the above discussions, this Court pass the following order:

i) The nature of activities carried on by the petitioner is only residential in nature and accordingly, the residential tariff will apply for the purpose of levying the property tax, water tax and water charges for the petitioners' properties.

ii) It is needless to state that if the property tax as well as the water tax are required to be collected in the

residential tariff and ultimately, the electricity charges is also required to be collected only in the residential tariff.

iii) As discussed in 2nd issue, there is a clear violation of principles of natural justice. In these cases, no notice was issued to the petitioners prior to the conversion of petitioners' properties from residential tariff into commercial tariff. Therefore, on this aspect also, the impugned notices are liable to be quashed.

11. In view of the above, all the impugned notices are liable to be quashed. Accordingly, the same are quashed. While quashing the demand notices, the respondents are directed to treat the petitioners' property as “residential unit” and levy the taxes, such as property tax, water tax and electricity charges, accordingly.

12. The decision arrived at by this Court vide this order is applicable only for the present cases. Even though this order would apply for the hostels, where the inmates are carrying on similar activities, the same has to be verified by the respondent. Therefore, this order cannot be followed in a blindfolded manner by all the hostels, unless and otherwise if they substantiate, before their case before the appropriate Authorities

concerned or before any Court of Law, that the inmates are using the rooms only for the purpose of residential activities.

13. In the result, all the writ petitions are allowed. No cost. Consequently, the connected miscellaneous petitions are also closed.

07.11.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa
To

1.The Senior Revenue Officer
Ward. 186, Zone- 14, Revenue Department,
Greater Chennai corporation,
Chennai, Tamil nadu.

2.The Assistant Commissioner
Ward. 004, North Zone, Coimbatore
Municipal Corporation, Saravanampatti,
Coimbatore.

3.The Assistant Commissioner
Ward- IV, North Zone, Coimbatore City
Municipal Corporation , Saravanampatti,
Coimbatore.

4.The Assistant Commissioner
Ward 004, North Zone,

Coimbatore Municipal Corporation,
Saravanampatti, Coimbatore.

5. The Commissioner
Coimbatore City Municipal Corporation,
Coimbatore

6. The Assistant Commissioner,Coimbatore
City Municipal Corporation,
Central Zone, Coimbatore
Coimbatore City Municipal Corporation,
Central Zone, Coimbatore – 641045

7.The Commissioner
Ward 004, North Zone
Coimbatore Municipal Corproaiton,
Sarvanampatti, coimbatore

8.Special Tahsildar
Chennai Metropolitan Water Supply And
Sewerage Board, No.1, Rajiv Gandhi Salai,
Omr Kottivakkam, Chennai,
Tamilnadu-600 041

9. The Secretary to Government,
Municipal Administration and water supply
Department, Government of Tamil Nadu,
Saint George Fort, Chennai

10. The Chairman
Chennai Metro water Supply and Sewerage Board,
Chindadripet Chennai

11. The Depot Manager
Chennai Metro water Supply and Sewerage Board,
Division 13 Depot 178 Adayar Chennai

12. The Assistant Engineer
Chennai Metro water Supply and Sewerage
Board, Division 13 Depot 178 Adayar
Chennai

13. The Commissioner
Coimbatore City Municipal Corporation,
Town Hall, Coimbatore- 641 001.

14. The Assistant Commissioner
East Zone Coimbatore City Municipal
Corporation, Coimbatore-641 005.

KRISHNAN RAMASAMY.J.,

nsa

W.P.Nos.10194 of 2025, etc., Batch

07.11.2025