THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.M.S.A.No.67 OF 2009

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JUDGMENT:

This appeal is filed challenging the order of the Chief Judge, City Small Causes Court, Hyderabad, in M.A.No.106 of 2009, dated 08.10.2009, wherein the appeal filed by the appellant was dismissed.

The appellant is the owner of immovable property and it was assessed to tax. Challenging the same, objections were filed initially before the Municipal Commissioner/revisional authority and since the objections were not considered, the matter was carried in appeal before the Chief Judge, City Small Causes Court, Hyderabad, which remanded the same to the Municipal Commissioner for fresh consideration. While the matter stood thus, the parties entered into a compromise and the tax was fixed at Rs.2,23,930/- w.e.f. 01.04.2007 vide order dated 10.08.2007.

While so, the respondent Corporation issued a special notice dated 06.10.2008 proposing to enhance the tax from Rs.2,23,930/- per annum to Rs.3,35,896/- per annum. On receipt of the notice, the appellant filed objections, dated 13.10.2008, but an enquiry was conducted on 29.11.2008 by the respondent Corporation and rejected the objections of the appellant. Aggrieved by the same, the appeal was preferred before the Chief Judge, City Small Causes Court, Hyderabad.

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While deciding the matter, the Chief Judge, City Small Causes Court, Hyderabad, adverted to the grounds of appeal and made an observation in paragraph No.12 of the judgment that the appellant filed objections before the Commissioner, but no finding was recorded about the consideration of the same.

Learned counsel for the appellant drew the attention of this Court to the objections filed on 13.10.2008, where the appellant questioned the proposed enhancement on various grounds including the proposal of enhancing the tax by abnormal rates based on capital value. However, the respondent Corporation passed an order, dated 04.12.2008, without considering the objections raised by the appellant and in violation of Sections
222 and 223 of the Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act').

Though the Chief Judge, City Small Causes Court, Hyderabad, adverted to the grounds urged by the appellant before the Court, she did not answer it. Therefore, passing an order without considering the objections by the statutory authorities under the Municipal Corporation Act is against the principles of natural justice.

In **Assistant Commissioner of Commercial Taxes Department Works Contract and Leasing v. Sukla and Brothers**, the Apex Court held that the Court should provide its own grounds and reasons for rejecting the claim or prayer of the party. Request of order does not necessarily mean very detailed or lengthy order, but there should be some reasoning recorded by Court for declining or granting relief. As the purpose is to make the litigant aware of reasons for which relief is declined as well as to help higher Courts in assessing correctness of view taken by High Court, while disposing of the matter. If any order is passed without reason, it is liable to be set aside.

In the present case, the respondent Corporation is a quasi judicial authority to decide the correctness of proposed assessment. Non-consideration of the objections and passing a cryptic order without complying with the Sections 222 and 223
of the Act is against the principles of natural justice, since it does not afford an opportunity to know the reason for passing such an order and personal hearing. But the appellate Court did not consider the specific objections and failed to record any finding on this aspect. Hence, I find that it is a fit case to remand matter to the respondent Corporation with a direction to consider the objections and pass a reasoned order within two months from the date of receipt of a copy of this order

affording reasonable opportunity to the appellant.

In the result, the Civil Miscellaneous Second Appeal is allowed and the matter is remanded to the Commissioner/ revisional authority to pass appropriate reasoned order strictly complying with the procedure contemplated under Sections 222 and 223 of the Hyderabad Municipal Corporation Act, 1955 within two months from the date of receipt of the order. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in the appeal shall stand closed.

M.SATYANARAYANA MURTHY, **J**

04.06.2015

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