IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1677 OF 2012
WITH
CIVIL APPLICATION NO. 4204 OF 2012

Mondelez India Foods Limited
(Formerly Cadbury India Limited) ... Appellant

vs.

Brihanmumbai Mahanagar Palika and anr. ... Respondents

Mr. S. M. Gorwadkar, Senior Advocate i/by M/s. Crowford Baylee & Co., for the appellant.
Mrs. M. R. Bhoir, Advocate for respondent no.1/BMC.

Coram : Smt. R. P. SondurBaldota, J.
Date : 20th April, 2016.

P.C.

1. This appeal is directed against the judgment and order dated 4th August, 2012, by which the Court of Small Causes at Bombay dismissed the appeal preferred by the appellant herein to challenge the order of enhancement of ratable value of the property of the appellant. The enhancement was from Rs.72,935/- to Rs.9,85,595/-.

2. The property in question is situate at Bhulabhai Desai Road described as House with outhouse. The house consists of

basement, ground, first and second floor. The basement is used as a warehouse and canteen, the ground and the first floor as office and the second floor for residence, conference hall, T. T. hall, library, sports and canteen purposes. The detached outhouse has three rooms on the ground floor used as godown and the first floor as office. It's covered passed is used for 5 car parks. According to the appellant the property has been in existence since prior to the year 1944. It had been assessed for taxes by respondent no.1 at Rs.72,934/- until 1st April, 2003. In the year 2003 the appellant renovated and repaired the property after getting the plans approved by respondent no.1 Corporation. It coloured the building and carried out temporary alterations inside. The appellant then gave the outhouse premises consisting of ground and first floor on leave and licence basis.

3. After renovation the property was inspected by the officers of the respondent. Special notices under Section 162 (2) and 167 of Bombay Municipal Corporation Act were issued to the appellant intimating that the rateable value of the property was fixed at Rs.22,98,270/- with effect from 1st April, 2003. The appellant replied the notice by it's letter dated 29th March, 2004. After receiving the reply and also hearing the submissions on behalf of the appellant, the Investigating Officer reduced the

assessment from Rs.22,98,270/- to Rs.9,85,595/-. This reduction came to be further challenged by the appellant by preferring the appeal to the Small Causes Court, Mumbai.

4. The Small Causes Court by the impugned judgment and order held that the appellant had failed to establish that ratable value assessed by the Investigating Officer of the respondent is incorrect. It held that though the work of repairs and renovation did not involve extra F.S.I. or additions/alterations or the change of user the fact remains that the premises were always used for commercial purposes since beginning. After renovations, the detached out-house was given on Leave and Licence basis to Hyundai Motors India Ltd. The renovations had in fact been to suit the use of the premises by Hyundai Motors India. The Small Causes Court also observed that the appellant had not produced any evidence before the Court as to what should be the enhancement in the ratable value.

5. The appellant had contended before the Court of Small Causes that it was incumbent upon the Investigating Officer to state reasons for enhancement of the ratable value. According to the appellant, non-compliance of the rule providing principle of hearing was not correct. The contention was rejected with reason that the Investigating Officer only being a quasi-judicial authority,

the reasons stated even in the complaint were sufficient.

6. Mr. Gorwadkar, the learned advocate for the appellant submits that the order passed by the Investigating Officer of the respondent on the complaint of the appellant is not a speaking order and therefore the same is liable to be set aside. His other argument is that during renovation, the property had not undergone any structural changes or change in area and therefore there was no justification for enhancement of the rateable value. The appellant contends that the property is situate in less prominent area of Mumbai and that the extent of expenditure on maintenance of the property cannot affect the rateable value. The third argument of the appellant is that the appellant has examined a witness to establish what should be appropriate rateable value of the property in compliance with the decision of the Apex Court in ***Municipal Corporation of Greater Mumbai vs. Kamla Mills Ltd. reported in AIR 2003 S.C. page 2998.***

7 The impugned order, relying upon an unreported decision of this court in Miscellaneous Petition No.294 of 1969 in **The East India Hotel Ltd. vs. The Municipal Corporation of Greater Bombay** has held that the reasons recorded by the Investigating Officer in the Complaint Book satisfies the requirement of the Investigating Officer stating reasons for the

order. Perusal of the record shows that the reasons have in fact been stated. This view taken by the Small Causes Court is a correct view. The Investigating Officer of the respondent is only a quasi-judicial authority. He is not expected to deal with, each an every contention taken up before him, in the manner as a judicial authority would deal with.

8 It is well established position in law that when the objections are taken by the owner to change in the ratable value of the premises, the burden of establishing the correct standard rate in respect of the premises is undoubtedly upon the owner. This burden has not been discharged by the appellant. Though the appellant has examined a witness in the appeal proceedings, the witnesses has not deposed on what would be the appropriate rateable value of the property. The location of the property is Bhulabhai Desai Road, which is one of the prime locations of the city. Admittedly extensive repairs at considerable expenses have been carried to the property. Thereafter part of the premises was given on Leave and Licence to Hyundai Motors India at a considerable licence fees. Thus, the value of the property has increased justifying the revision of assessment. It is to be noted that the Investigating Officer after hearing the grounds of objections by the appellant had in fact substantially reduced the

enhancement from Rs.22,98,270/- to Rs.9,85,595/-. In the circumstances, there is no infirmity, whatsoever, in the order impugned in the first appeal. Hence, the first appeal is dismissed.

9. In view of dismissal of the first appeal, Civil Application No.4204 of 2012 does not survive. The same is accordingly disposed off.

[Smt. R. P. SondurBaldota, J.]