**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.21784 of 2014
Date of decision:01.08.2017**

Ambala Bus Syndicate Pvt. Ltd. ... Petitioner

Vs.

State of Punjab and others ... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Baldev Kapoor, Advocate
for the petitioner.

Mr. S.K.Arora, Advocate
for respondent No.2.

AMIT RAWAL J.

The petitioner has sought quashing of the order by invoking writ jurisdiction of this Court under Article 226 of the Constitution of India seeking setting aside of the order dated 12.06.2014 (Annexure P-8) rendered by respondent No.3 [The Additional Deputy Commissioner, Roop Nagar exercising the powers of Deputy Commissioner (Appellate Authority under the Punjab Municipal Act, 1911)], notice dated 19.05.2009 (Annexure P-2), the recovery bill dated 10.02.2010 (Annexure P-4), notice dated 15.09.2014 (Annexure P-9) and the demand notice dated 21.10.2014 (Annexure P-10).

2. Learned counsel for the petitioner submits, that the petitioner is owner of the property bearing No.26, situated at Old Bus Stand, Ropar, consisting of land and building which includes three shops, office, workshop and petrol pump. In the year 2003, the Municipal Council assessed the annual value of the aforesaid property, in accordance with the provisions of Section 3(i) of the Punjab Municipal Act, 1911 (hereinafter called 'the Act') and the petitioner had regularly been making payment of the house tax which is reflected in para 4 of the writ petition. However, vide resolution No.456 dated 23.05.2007 (Annexure P-1), the Municipal Council decided that fresh assessment be made in respect of the property of the petitioner as the earlier assessment was made in the year 2003-04..

3. The petitioner was surprised to receive a notice dated 19.05.2009 (Annexure P-2), whereby, it was intimated that the assessment of the property aforementioned was assessed at ₹19,38,050/- per year and the annual tax came to be ₹2,90,455/-. The petitioner was given 30 days time to file objections to the aforesaid notice.

4. Vide Annexure P-3, the petitioner assailed the assessment by filing the objections, dated 17.06.2009. However, despite receipt of the objections, the Municipal Council did not issue any notice nor afforded the opportunity, but arbitrarily and erroneously, vide Annexure P-4, raised the bill of ₹2,32,364/- by giving a rebate of 10%, for timely payment to be made within 15 days of receipt of the bill.

5. Having left with no other option, the petitioner preferred Civil Writ Petition bearing No.14288 of 2010 before this Court which was

disposed of on 17.03.2011 permitting the petitioner to avail the statutory remedy of appeal.

6. Accordingly, an appeal (Annexure P-7) was preferred and respondent no.3 after noticing some of the arguments of the parties, vide impugned order dated 12.06.2014 (Annexure P-8) dismissed the appeal in a cryptic and erroneous manner. After dismissal of the appeal, the petitioner has received a notice dated 15.09.2014 (Annexure P-9) from the office of respondent No.2 demanding the house tax for the year 2009-10, 2010-11, 2011-12 and 2012-13.

7. It was next argued that the impugned order is sketchy, mechanical and wanting reasons. The statutory authority did not advert to the detailed grounds of appeal and the objections raised against the demand notice and therefore, the same is not sustainable in the eyes of law.

8. Per contra, learned counsel appearing on behalf of respondent no.2 submits, that the provisions of Section 3 were amended by Punjab Act No.11 of 1994, which were challenged before this Court, vide CWP No.1801 of 1995. The writ petition was allowed, vide judgment dated 27.08.2001 but on appeal, the Supreme Court, in Civil Appeal bearing No.684 of 2003 upheld the said amendment. After receipt of the instructions from the Local Government, the Municipal Council gave a public notice in the newspaper dated 6.5.2009. It was provided therein that the properties situated within the Municipal Limits of Municipal Council, Roopnagar were required to be assessed to the house tax and the list of the properties (Annexure R-2/1) was prepared by the Municipal Council. It further

stipulated that opportunity was being given to the owner or the occupier to inspect the said list and submit the objections, within period of 30 days from the publication of the said notice.

9. After receipt of the objections, the petitioner was provided an opportunity of hearing on 8.1.2010 when its representative, namely, Sukhdev Singh attended the hearing before the House Tax Sub Committee. On consideration of the matter, vide order dated 08.01.2010 (Annexure R-2/2), the proposed house tax was reduced to the extent of 20%. The aforementioned order was assailed before the appellate authority. Vide order dated 31.10.2011 (Annexure R-2/3), the appellate authority set aside the order and remitted the matter to the Municipal Council, Roopnagar, for passing a fresh order. After the remand, the opportunity of hearing was again given which is evident from the proceedings of the House Tax Committee. Vide order dated 27.02.2013 (Annexure R-2/4), fresh assessment order was passed. It cannot now be urged that the petitioner was never given any opportunity of hearing, much less given copy of the assessment order. It was, thus, urged that there is no illegality and ambiguity in the order which cannot be said to have been passed capriciously.

10. We have heard learned counsel for the parties and appraised the paper book.

11. Without commenting upon the merits of the controversy, it is noticed that the appellate authority while dismissing the appeal of the petitioner has not assigned any reasons. For the sake of brevity, the operative part of the order dated 12.06.2014 reads thus:-

"The record available on the file and after hearing the arguments of both the parties, I have come to the conclusion that the Bill which has been raised to Ambala Bus Syndicate Pvt. Ltd., Ropar has been issued as per the instructions of the government. The decision taken by the Municipal Council is justified and correct, therefore, the decision taken by the Municipal Council is upheld. The copy of the order be sent to the Executive Officer, Municipal Council, Rupnagar. Order announced. The file be consigned to record after compliance.

Dated 12.6.2014 Sd/-
Addl.Deputy Commissioner
Exercising the powers of Dy. Commissioner
Rupnagar."

12. The statutory authorities are legitimately expected to pass the reasoned and speaking order, after affording the opportunity of hearing. The aforesaid does not satisfy the test of a speaking order and is also in violation of principles of natural justice. The impugned order is, thus, legally unsustainable.

13. In view of what has been observed above, the order dated 12.06.2014 (Annexure P-8) rendered by respondent No.3 (The Additional Deputy Commissioner, Roop Nagar exercising the powers of Deputy Commissioner (Appellate Authority under the Punjab Municipal Act, 1911), is hereby set aside and the matter is remitted to the said authority for deciding the appeal afresh, after affording the opportunity of hearing to the parties by passing a speaking and reasoned order.

14. Let this exercise be done within a period of three months from the date of receipt of a certified copy of this order. Needless to say, anything observed hereinbefore shall not be taken to the expression of opinion on the merits of the controversy.

16. The writ petition stands disposed of, in the aforementioned terms.

(AJAY KUMAR MITTAL) **JUDGE**	**(AMIT RAWAL)** **JUDGE**

August 01, 2017
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No