

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

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**CWP No. 21005 of 2014 (O&M)
Date of Decision : 03.12.2019**

Life Insurance Corporation of India

... Petitioner

Versus

The Municipal Council, Rajpura and others

...Respondents

CORAM:HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. S.K.Mahajan, Advocate for the petitioner.

Mr. Mukesh Berry, Advocate for respondents No.1 and 2.

Mr. Vikas Mohan Gupta, Addl. A.G. Punjab.

SUVIR SEHGAL, J.

The instant writ petition has been filed seeking issuance of a writ in the nature of certiorari for quashing order dated 27.04.2012 (Annexure P-10) passed by the House Tax Sub Committee of Municipal Council, Rajpura, (respondent No.2) whereby annual value of property bearing number B-1/99, Guru Nanak Colony, Rajpura (for short 'the property') owned by the petitioner has been increased from Rs.2,23,175/- to Rs.7,45,000/- and house tax payable from Rs.23,975/- and Rs.1,11,750/- per annum as well as appellate order dated 11.06.2013 (Annexure P-12) passed by Additional Deputy Commissioner, Patiala

(respondent No.3), whereby the appeal preferred by the petitioner was dismissed.

In short, the petitioner was owner of the property on which construction was raised by its branch office. In the year 1988-89, the property was assessed to house tax by the Municipal Council, Rajpura whereby it finalized its annual value @ Rs.1,21,250/- vide order dated 24.03.1988 (Annexure P-1) . In the year 1994, the Punjab Municipal Act, 1911 (for short 'the Act') was amended. After the amendment, on 11.07.1996 (Annexure P-2), the Municipal Council, Rajpura (respondent No.1) issued notice under Section 67 of the Act proposing to raise the annual value of the property to Rs.3,55,350/-. The petitioner filed objections (Annexure P-3) to the proposed amendment. By order dated 16.10.1996 (Annexure P-4), respondent No.2 finalized the annual value of the property as Rs.2,23,175/- w.e.f. 01.10.1996. A statutory appeal was filed by the petitioner under Section 84 of the Act which was dismissed by respondent No.3 on 24.09.1997 (Annexure P-5). The petitioner filed CWP No.7289 of 1998 before this Court challenging the orders (Annexures P-4 and P-5), which was allowed alongwith other connected petitions by a common judgment dated 27.08.2001 (Annexure P-6). The amended provisions were struck down, the assessment orders were quashed and the municipalities were directed to refund the excess amount. In Civil Appeal No.819 of 2013 preferred by respondent No.1, the Hon'ble Supreme Court allowed the appeal and upheld the validity of Section 3(1)(b) and 3(8aa) of the Act. A fresh notice dated 10.02.2011 (Annexure P-8) was issued by respondent No.1 under Section 67(3) of the Act proposing to increase the annual value of the property to

Rs.11,50,075/-. Objections dated 18.04.2011 (Annexure P-9) were filed by the petitioner. Respondent No.2 vide order dated 27.04.2012 (Annexure P-10) enhanced the annual value of the property to Rs.7,45,000/- and calculated the house tax payable as Rs.1,11,750/- per annum with fire cess as Rs.5,588/- per annum from the year 2010-2011. An appeal dated 31.05.2012 (Annexure P-11) was filed by the petitioner which was dismissed by respondent No.3 vide order dated 11.06.2013 (Annexure P-12). The petitioner has submitted that order dated 11.06.2013 (Annexure P-12) was supplied to it on 25.02.2014 and thereafter, the present writ petition has been filed challenging the impugning orders (Annexures P-10 and P-12).

Upon issuance of notice of motion to the respondents, respondent No.3 has filed a short reply whereby it has been submitted that the order was passed by him in a *quasi judicial* capacity. During the course of hearing before this court on 27.09.2019, the counsel appearing for respondents No.1 and 2, on instructions, submitted that reply on behalf of respondents No.1 and 2 is not required to be filed.

Counsels for the parties have been heard and record has been perused with their able assistance.

Learned counsel for the petitioner has argued that besides other objections he had particularly placed reliance upon the judgment of the Supreme Court in ***Municipal Committee, Patiala Versus Model Town Residents Association***, 2007(3) RCR (Civil) 754 to submit that annual value, once determined as per the amended provision is valid for a period of five years and thereafter, annual value is to be increased as per the wishes of the owner, who may either opt for the method laid down under Section 3(1)(b) of the Act or may opt for increasing the

annual value already fixed by 10%. He has submitted that this aspect has neither been considered by respondent No.2 while deciding his objections nor by respondent No.3 while adjudicating the appeal. He has further submitted that the authorities have not considered the fact that the ground floor of the property was lying vacant.

After hearing the parties, the appellate authority has dismissed the appeal of the petitioner with the following observations:-

"After hearing the arguments of the learned counsels and carefully perusing the documents attached with the file, I have come to the conclusion that assessment of the house tax of the above said property has been made by respondent as per procedure/law. Representative of the appellant was present in the House Tax Committee. The assessment was made after hearing him. Therefore, keeping in view the above said facts, the appeal of the appellant is hereby dismissed being against the facts and law. File be consigned to the record room after compliance."

A perusal of the order shows that the appellate authority has failed to record any reasons. Respondent No.3 was deciding the appeal as a *quasi-judicial* authority. The requirement of law is that orders passed by a *quasi-judicial* authority must be supported by cogent reasons. If the superior court finds that the *quasi-judicial* authority has not given any reasons in support of its conclusions, then such an order is liable to be quashed on the ground of being violative of the principles of natural justice.

Moreover, the petitioner had specifically referred to the judgment in ***Municipal Council, Patiala's*** case (supra) in his objections

as well as in the grounds of appeal dated 31.05.2012 (Annexure P-11) filed by it. But while passing the order, neither respondent No.2 nor respondent No.3 while dismissing the appeal adverted to the same. In the absence of any reference to the same, the orders passed by respondents No. 2 and 3, cannot be sustained. Reference in this regard may be made to the judgment of a Division Bench of this Court in ***Life Insurance Corporation of India Vs. Municipal Committee, Ferozepur and others***, 1997(2) PLR 795 (DB) wherein it was observed as under:-

"7. A look at the order passed by the Appellate Authority shows that after taking cognizance of the facts and arguments advanced by the counsel/representatives of the parties, the Appellate Authority has rejected the points raised by the petitioner simply by saying that the order passed by the Assessing Authority is a detailed one. On its part, the Appellate Authority has not discussed the various objections raised by the petitioner in the memorandum of appeal and the written arguments, nor has it assigned reasons for not accepting the arguments advanced on behalf of the petitioner. In our opinion, it was the duty of the Appellate Authority to independently examine the issue raised on behalf of the petitioner and decide the same by assigning good and sufficient reasons. Since that has not been done, we have no hesitation to hold that the order passed by the Appellate Authority suffers from an error of law apparent on the face of it."

In view of the above, order dated 11.06.2013 (Annexure P-12) passed by respondent No.3 is declared illegal and is quashed.

Respondent No.3 is directed to hear the appeal afresh and decide it by passing a speaking order after giving the petitioner an effective opportunity of hearing and after considering all the submissions made before it within a period of three months from the date of receipt of the certified copy of this order.

CWP is accordingly disposed of.

03.12.2019

pooja saini

(SUVIR SEHGAL)

JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>