D/L
Item No. 1
09.12.2021
KOLE

MAT 1343 of 2014
With
IA No. CAN 1 of 2014 (Old No. CAN 7599 of 2014)

Kalpana Sarkar
-Vs.-
The Kolkata Municipal Corporation & Ors.

Mr. R. N. Chakraborty,
Mr. M. Ahmed,
Mrs. T. Das

... for the appellant.

Mr. B. Mukherjee,
Mr. F. Haque,

... for the KMC.

By consent of the parties the appeal and the application are taken up for hearing together.

This appeal is against an order dated May 13, 2014 whereby WP No. 11979(W) of 2014 was disposed of. No order was passed on the writ petition and in effect the same was dismissed.

The writ petitioner had approached the learned Single Judge with the grievance that the Hearing Officer did not give due consideration to the objection that she had filed before the Officer. The learned Single Judge came to a conclusion that the writ petitioner has not been able to demonstrate that she had, in fact, filed her objection before the Hearing Officer prior to the date of hearing.

Accordingly, learned Judge dismissed the writ petition. Being aggrieved, the writ petitioner is before us.

The brief facts of the case are that the writ petitioner is the owner of a particular premises. The Corporation proposed an annual valuation for the premises in question which was in the sum of Rs. 21,600/- with effect from the second quarter of 2002-03. This was a valuation under Section 180 of the Kolkata Municipal Corporation Act. The Hearing Officer reduced the annual valuation to Rs. 17,280/-. This was also challenged by the writ petitioner before the Municipal Assessment Tribunal. The Tribunal further reduced the annual valuation to Rs. 7,780/-.

Two years later when the time came for general revaluation, a notice was sent to the writ petitioner wherein the annual valuation of the premises in question was shown as Rs. 17,280/- and not the amount fixed by the Municipal Assessment Tribunal. Being aggrieved, the writ petitioner challenged such notice by filing WP No. 15806(W) of 2013. By an order dated June, 24, 2013, such writ petition was disposed of by observing "In the event any objection has already been submitted by the writ petitioner herein before the authority concerned within the time prescribed under the statute, the hearing Officer will finalize the assessment of the annual valuation of the said premises for the said period after taking into consideration the said objection".

Subsequently, the Hearing Officer passed an order dated June 7, 2014 wherein he proceeded on the basis that the annual valuation of the premises in question is Rs. 17, 280/- and not Rs. 7,780/- as was fixed by the Tribunal.

Being aggrieved, this was challenged by the writ petitioner which resulted in the order impugned in this appeal.

We have heard the learned Counsel for the parties at length. We are unable to agree with the observation of the learned Single Judge that the writ petitioner could not demonstrate that she had filed her objection before the Hearing Officer. The order of the Hearing Officer itself refers to the objection filed by the writ petitioner. However, the contention of the writ petitioner is that due consideration was not given to such objection. The Municipal Assessment Tribunal having reduced the annual valuation from Rs. 17,280/- to Rs. 7,780/- for the relevant quarter, the Hearing Officer could not proceed on the basis of the annual valuation of Rs. 17,280/-.

We are of the view that once the Tribunal has reduced the annual valuation of the premises, that should be the basis for the Hearing Officer to fix the amount of annual valuation for the subsequent quarters. Further, it appears that there was no change in the new taxable event which could have prompted the Hearing Officer to proceed on the basis of a different annual valuation rather than that which was fixed by the Tribunal.

In the result, the order under appeal is set aside. The order of the Hearing Officer dated January 7, 2014 is also set aside. The matter is remanded to the Hearing Officer for fresh consideration in the light of the observations made in this order. The Hearing Officer shall pass a reasoned order and in the event it proceeds on the basis of annual valuation of more than Rs. 7,780/-, it shall indicate the reason in the order for doing so. Let this exercise be completed within six weeks from the date of communication of this order to the Hearing Officer who is presently in-charge of the concerned ward.

The appeal, being no. MAT 1343 of 2014 and the connected application, being no. CAN 7599 of 2014 are accordingly disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(**Arijit Banerjee**, **J**.)

(**Kausik Chanda**, **J**.)