

ORDER SHEET

WPO 108 of 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

HARBANS LAL MALHOTRA & SONS PRIVATE LIMITED & ANR.
VS.
THE MUNICIPAL COMMISSIONER, KOLKATA MUNICIPAL
CORPORATION

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 4th March, 2021

Mr. Sabyasachi Choudhury, Mrs. Nikita Jhunhunwala,
Mr. Tridib Bose, Advocates for the petitioners.

Mr. Alok Kumar Ghosh, Mr. Gopal Chandra Das,
Advocates for K. M. C.

The Court : The petitioners are aggrieved by the assessment orders passed in respect of the premises in question. The petitioners submit that the Hon'ble Supreme Court in Civil Appeal No.3337 of 2007 in Harbanslal Malhotra & Sons Pvt. Ltd. Vs. Kolkata Municipal Corporation & Anr. by judgment dated 5th September, 2017 has already decided the issue in question. The Supreme Court had been pleased to set aside the orders passed by the Hon'ble High Court in the review application and restore the order of the Tribunal dated 18th November, 2002.

The petitioners submit that even though the issue has been settled by the Supreme Court, the appeals filed by the petitioner before the

Municipal Assessment Tribunal at Kolkata being M. A. A. No. 534 of 2003 and MAA No.40 of 2019 are pending before the Tribunal for consideration.

It has further been submitted that fresh LOIs have been served upon the petitioners and if the amount which is already deposited in excess is not refunded to the petitioners, then the petitioners will suffer irreparable loss and will be highly prejudiced.

The petitioners have given detailed calculation as to the amount of money that is being held by the Kolkata Municipal Corporation in excess.

As it appears that the appeals in question are pending consideration before the Tribunal for a considerable period of time and the issue has already been decided by the Hon'ble Supreme Court by judgment dated 5th September, 2017, accordingly, the petitioners are granted leave to approach the Municipal Assessment Tribunal seeking necessary relief on the basis of the judgment delivered by the Hon'ble Supreme Court. In the event such an application is made before the Tribunal, the Municipal Assessment Tribunal shall endeavour to conclude hearing of the appeals that are pending before it, at the earliest, but positively within a period of three months from the date of filing of the application by the petitioners.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(AMRITA SINHA, J.)

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