OD-1

RVWO/8/2016
WITH
APO No. 138 of 2015
WPO No. 330 of 2011
IA No. GA/1/2016 (Old No.GA/530/2016)
GA/2/2016 (Old No.GA/531/2016)

IN THE HIGH COURT AT CALCUTTA
In Review from its Constitutional Writ Jurisdiction
ORIGINAL SIDE

STEEL AUTHORITY OF INDIA LIMITED, IISCO STEEL PLANT (FORMERLY: INDIAN IRON & STEEL COMPANY LIMITED)
VS.
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
THE HON'BLE JUSTICE ARIJIT BANERJEE

THE HON'BLE JUSTICE KAUSIK CHANDA
Date: February 21, 2022.

Appearance:
Mr. Lakshmi Kr. Gupta, Sr. Adv.
Mr. C. Gupta, Adv.
Mr. Dwip Raj Basu, Adv.
...for the petitioner

Mr. Biswajit Mukherjee, Adv.
Mr. Gopal Ch. Das, Adv.
...for the KMC

The Court: The owners of the property in question which is situated at 50, Chowringhee Road, Kolkata granted a lease in respect thereof in favour of one Orient Beverages Limited. After some time, Orient Beverages assigned the unexpired portion of the lease to and in favour of Indian Iron and Steel Company Limited (IISCO). It is a matter of record that IISCO subsequently merged with Steel Authority of India Limited (SAIL) sometime in the year 2007.

It appears that for the periods 4/1978-79, 4/1984-85, 4/1990-91 and 4/1996-97 and in fact, upto the period 4th quarter, 2003-04, property tax in respect of the said premises fell in arrears. IISCO took advantage of a waiver scheme that was floated by the Kolkata Municipal Corporation and paid the dues as per the waiver scheme in 2004.

It further appears that the concerned Assessing Officer passed an order dated January 27, 2006, revaluing the premises in question. The revaluation was done also for the period in respect of which IISCO paid the Corporation dues under the waiver scheme. IISCO was aggrieved, as according to it, the order was passed without granting an opportunity of hearing to IISCO. IISCO approached the Learned Single Judge by way of a writ petition, which was dismissed. In an appeal therefrom, the order under review was passed on November 27, 2015.

The Division Bench observed that since IISCO had paid the dues till 4th quarter, 2003-2004, it could not have any grievance in respect of the valuation of the premises till that period. Accordingly, the appeal was dismissed.

Appearing for the review petitioner, Mr. Gupta, learned senior advocate, submits that possibly the case of the appellant could not be projected clearly before the Division Bench. What SAIL was aggrieved by is reassessment for the period for which IISCO had already paid the Corporation dues as per the waiver scheme. This was done without putting IISCO on notice. This is the short grievance. This, according to Mr. Gupta, is an error on the face of the record justifying review of the order dated November 27, 2015.

We have also heard Mr. Mukherjee, learned counsel for the Corporation. Mr. Mukherjee points out that the reassessment was done upon notice to Orient Beverages Limited. Orient Beverages participated in the proceedings on three dates of hearing. Subsequently that company did not show up any more before the Hearing Officer. After giving sufficient opportunity to Orient Beverages the order dated January 27, 2006 was passed ex parte.

We do not wish to go into the merits of the contentions of the respective parties. It is not in dispute that notice of hearing for reassessment of valuation of the premises in question was not given to IISCO. The Corporation would say that since IISCO was not the recorded owner, notice was not given. However, we cannot lose sight of the fact that for the period till 4th quarter of 2003-04, IISCO had paid the property tax under waiver scheme and Corporation received the same from IISCO. Bills were also raised by the Corporation wherein the name of IISCO appeared as the owner of the structure. The Corporation was obviously aware of the fact that IISCO was in occupation of the premises in question. We are of the view that principles of natural justice required that a notice of hearing ought to have been served on IISCO.

Accordingly, only on the ground of breach of the principle of natural justice and without entering into the merits of the case, we modify the order under review by allowing the appeal and we set aside the order dated January 27, 2006 passed by the Hearing Officer. The Hearing Officer shall serve a notice of hearing on SAIL for the purpose of carrying out the exercise afresh. We clarify that the exercise that culminated in the order dated January 27, 2006 shall be carried out afresh after granting an opportunity of hearing to SAIL.

Consequently, the order of the Learned Single Judge is set aside.

RVWO No.8 of 2016 along with connected applications are accordingly disposed of.

(ARIJIT BANERJEE, J.)

(KAUSIK CHANDA, J.)