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IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/2267/2022

ABAS NIBAS PVT. LTD.
Versus
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 20th June, 2022.

Appearance :
Mr. Raghunath Chakraborty, Adv.
Ms. Tanusree Das, Adv.
Md. Apzal Ansari, Adv.
...for the petitioner

Mr. Biswajit Mukherjee, Adv.
Ms. Manisha Nath, Adv.
...for the K.M.C.

The Court:- The petitioner being aggrieved by the fixation of annual valuation in respect of the premises No. 1, Rustamjee Parsee Road, Ward No. 6, Kolkata- 700002 preferred appeals before the Municipal Assessment Tribunal being M.A. Appeal Nos. 1121 of 2012 and 1122 of 2012. The said appeals were considered and disposed of on 31st May, 2016 whereby the annual valuation was reduced in respect of the said premises.

The petitioner, thereafter, made an application before the Municipal Commissioner on 5th February, 2020 praying for adjustment and refund of the excess amount which is lying with the Kolkata Municipal Corporation.

The grievance of the petitioner is that the said representation has not been considered till date.

The petitioner relies upon the provisions of Rule 25 of the Kolkata Municipal Corporation (Taxation) Rules, 1987. The petitioner also relies upon provisions of Section 197 of the Kolkata Municipal Corporation Act, 1980.

The petitioner submits that necessary directions may be passed upon the Commissioner of the Kolkata Municipal Corporation to take consequential steps pursuant to the judgment passed by the Municipal Assessment Tribunal.

Learned Advocate representing the Kolkata Municipal Corporation submits that the consequential steps are required to be taken by the Chief Manager, (Revenue) (North).

According to Rule 25(2) it is the duty of the Municipal Commissioner to give effect to the final order or to act according to the direction given by the Tribunal in its order, when the Tribunal varies or reverses the order appealed against.

Rule 25(3) mentions that the result of the appeal shall be noted in the Register of Appeals.

Section 197 of the K.M.C. Act, 1980 mentions that if after the disposal of the appeal under Section 189, the valuation decided under Section 174 or Section 188 is altered, then, any sum paid or deposited under Section 189 in excess shall be refunded or allowed to be set off against any present or future demand of the Corporation under the Act.

In the present case, the petitioner paid the excess amount and presently claims refund of the excess or prays that the excess may be set off against any present or future demand of the Corporation. The petitioner has already made a representation praying for adjustment and refund of the excess amount.

The Municipal Commissioner is accordingly directed to take necessary steps in the matter strictly in accordance with the provisions of Section 197 of the Act of 1980 at the earliest, but positively within a period of three months from the date of communication of this order.

It will be open for the Municipal Commissioner to delegate the power upon the competent authority to deal the issue.

The timeline as mentioned above shall be followed by the competent authority who may be delegated the power by the Municipal Commissioner. The reasoned order shall be passed by the competent authority within the time as specified hereinabove and the same shall be communicated to the petitioner immediately thereafters.

WPO/2267/2022 stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

TO