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ORDER SHEET
WPO No.1446 of 2021

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction

ORIGINAL SIDE

MANGALAM FASHIONS LIMITED & ANR.

VS

KOLKATA MUNICIPAL CORPORATON & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 6th December, 2022.

Appearance:

Mr. Arindam Banerjee, Adv.
Mr. Animesh Paul, Adv.
..for the Petitioners.

Mr. Ranajit Chatterjee, Adv.
Mr. Dwijadas Chakraborty, Adv.
..for KMC.

The Court:-The petitioners are aggrieved by the judgment passed by the Municipal Assessment Tribunal, 2nd Bench, Kolkata Municipal Corporation on 30th April, 2021 in MAA No.209 of 2003 affirming the order passed by the Hearing Officer-VI of the Kolkata Municipal Corporation fixing annual valuation of Unit No.B-2, second floor of the premises no.22, Abanindra Nath Thakur Sarani, Kolkata-700 017.

Today, a submission has been made on behalf of the petitioners that the petitioners intend to get the benefit of the judgment passed by the Hon'ble Supreme Court in the matter of Calcutta Municipal Corporation Vs. Motilal Naresh Kumar reported in 2007(2)CHN (SC) 143.

It has been submitted by the learned advocate representing the petitioners that the said benefit is given on uniform basis to all the eligible parties and the petitioners intend to avail the said benefit.

The Hon'ble Supreme Court in *Motilal Naresh Kumar (supra)* laid down that the occupier's share of tax and commercial surcharge included in the gross amount charged by the owner from the occupier is to be excluded for determining the annual valuation of the premises. For deduction of occupier's share the figure is fixed at 28 per cent where the property is used for commercial purpose.

The Hon'ble Supreme Court has laid down the formula in order to avoid frivolous litigation over small amounts between the Corporation and the owner. The manner to ascertain the quantum of tax payable by the owner has also been laid down by the Hon'ble Supreme Court.

As the petitioners seek benefit in accordance with the direction passed by the Hon'ble Supreme Court in *Motilal Naresh Kumar (supra)* which is being accepted by the Kolkata Municipal Corporation, it will be open for the petitioners to make comprehensive representation along with supporting documents before the Chief Manager (Revenue) (South), Kolkata Municipal Corporation.

In the event such a representation is made, the same shall be considered by the said authority in line of the judgment of *Motilal Naresh Kumar (supra)* after giving reasonable opportunity of hearing to the petitioners and any other interested party.

A reasoned order shall be passed and communicated to the parties.

The Chief Manager (Revenue) (South), Kolkata Municipal Corporation shall take all efforts to ensure that the representation is considered at the earliest, but positively within a period of eight weeks from the date of filing the same.

Learned advocate appearing on behalf of the petitioners is directed to forward a copy of the judgment passed by the Hon'ble Supreme Court in the matter of Motilal Naresh Kumar (supra) along with the comprehensive representation to be filed.

The aforesaid respondent shall consider the representation to be filed by the petitioners without being swayed by the order passed by the Hearing Officer-VI of the Kolkata Municipal Corporation confirmed by the Municipal Assessment Tribunal, 2nd Bench, Kolkata Municipal Corporation and will give the benefit to the petitioners, if they are so entitled to, in terms of the order passed by the Hon'ble Supreme Court.

The writ petition 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.)

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