HON'BLE SRI JUSTICE M.LAXMAN

CIVIL MISCELLANEOUS SECOND APPEAL No.12 of 2022

JUDGMENT:

1. This Civil Miscellaneous Second Appeal has been directed against order dated 17.01.2022 in M.A.No.148 of 2020, on the file of learned Chief Judge, City Small Causes Court, Hyderabad, wherein the appeal filed by the appellant herein against the impugned property tax demand notice dated 31.03.2020 issued by the Greater Hyderabad Municipal Corporation (hereinafter referred to as 'GHMC'), demanding tax amount of Rs.2,28,088/-, was dismissed.

2. The case of the appellant is that he is the owner of the building bearing No.3-5-826 to 828/F/103, situated at Hyderguda, Hyderabad and he inherited the building from his mother late Smt.Shahnaaz Begum. On 05.03.2015, the appellant has paid a sum of Rs.76,870/- to the GHMC, when the officials of GHMC has demanded the said amount as arrears of the said building. Thereafter, through a demand notice dated 31.03.2020, an amount of Rs.2,28,088/- was demanded by the GHMC in respect of the said building, without any details of assessment. The same was assailed and the said amount has been paid on 07.09.2020, but no receipt was issued by GHMC. It is also his case that, prior to that demand, he was paying annual tax of Rs.8,750/- and the same was enhanced to Rs.42,810/- for the year 2020-21, without any procedure contemplated under the Greater

Hyderabad Municipal Corporation Act, 1955 (for short “the Act”). Hence, the appellant has preferred an appeal in M.A.No.148 of 2020, on the file of the learned Chief Judge, City Small Causes Court, Hyderabad and the same was dismissed. Hence, the present appeal is filed at the instance of the appellant.

3. Learned counsel for the respondent contended that during the pendency of the appeal, the tax payable annually was reduced from Rs.42,810/- to Rs.25,688/-. However, the same was given effect from the assessment year 2020-21. According to him, prior to the reduction, the building was treated under the category of 5A which relates to shops on road facing and the rateable value was Rs.10/-. After inspection, they found the building is not on the road facing but located immediate to the road side building. Then, re-assessment was done by reducing the rateable value from Rs.10/- to Rs.6/- per sq.ft. Consequently, the amount was arrived to Rs.25,688/- per annum and benefit reassessment was given from assessment year 2020-21. The Court below, having taken cognizance of re-assessment, has dismissed the appeal. Aggrieved by the same, the present Civil Miscellaneous Second Appeal is filed.

4. Following substantial question of law arose for consideration:-

> *“Whether the Authorities were justified in giving the effect to the revised assessment from 2020-21 instead of 2014-15, for which, demand notice was issued which was challenged before the Appellate Forum”?*

5. Heard the learned counsel for the parties on the above substantial question of law and perused the materials placed on record.

6. On a perusal of the records, particularly counter filed by the respondent before the Court below, this Court found that there is no reference of compliance of Section 220(2) of GHMC Act.

7. It is not a case of general revision but it is a case of specific revision. The Commissioner, GHMC has an independent power to make an amendment in the assessment book either increasing or reducing the amount of rateable value. When such power was exercised by the Commissioner, GHMC, a notice under Section 220(2) of GHMC Act required to be issued. Admittedly, the same was not issued.

8. It is an undisputed fact that the building is not on the road side, so as to attract the rateable value of Rs.10/- per sq.ft., but it is located next to the road side building. It is also not in dispute that the activity done in the building is commercial activity. It is not seriously disputed by the appellant, immediate to road side building, the commissioner, GHMC adopted common rateable value of Rs.6 per sq.ft., in the same locality. Area of the building is also not in dispute. The only grievance is that value fixed in re-assessment has to be applied for period covered in demand notice.

9. In view of the above, this Court feels that instead of remanding the case for fresh assessment, if the reduction value as was done in re-assessment is given effect from the date of demand notice, which was impugned before the first appellate Court.

10. This Court finds that the rateable value was fixed as Rs.6/- per sq.ft as admitted by the Assistant Commissioner, GHMC, who is present in the Court Rs.6/- was adopted as common to all the buildings which are located immediate to the road-side building. The commercial activity and the usage of the building is not serious in dispute. Therefore, this Court feels that reduction should have been given not from 2020-21 but from the year 2014-15 onwards.

11. In the result, the Civil Miscellaneous Second Appeal is disposed of directing the respondent herein to give the benefit of reduction of tax payable for the building from the year 2014-15 onwards instead of the year 2020-21. The amounts already paid shall be adjusted. If excess amount is found to be paid, the same shall be refunded to the appellant or the same shall be adjusted in tax to be paid in future by the appellant. No costs. Miscellaneous applications, if any, pending shall stand closed.

JUSTICE M.LAXMAN

07.11.2022
Dua/Gms

THE HON'BLE SRI JUSTICE M.LAXMAN

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