

OD-9

ORDER SHEET
WPO/1716/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ORIENTAL MOTOR ACCESSORIES AGENCY PVT LTD. AND ANR
VS
THE KOLKATA MUNICIPAL CORPORATION AND ORS

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 16th October, 2023.

Appearance:

Mr. Mainak Bose, Adv.
Mr. Shankarsan Sarkar, Adv.
Mr. Tanmoy Sett, Adv.
Ms. Sucheta Das, Adv.
. . .for the petitioners.

Mr. Biswajit Mukherjee, Adv.
Mr. Mihir Kundu, Adv.
. . .for the K.M.C.

The Court: The notice under Section 184 read with Section 185 of KMC Act, 1980 dated 5th August, 2023 intimating the assessee to file objection within 11th September, 2023 if the assessee objects to the proposed annual valuation, have reached the assessee after the date fixed for hearing the objection. The petitioner submits that as the assessee could neither file objection nor be represented at the time of hearing on account of delayed receipt of the notice, the Corporation determined the annual valuation exparte and raised bills thereon.

The petitioner objects to the enhancement.

It has been submitted that the same is contrary to the provisions of the KMC Act, 1980 and is also in violation of the principles of natural justice. A notice demanding justice is pending consideration at the end of the Corporation.

Learned advocate representing the Kolkata Municipal Corporation is yet to receive instruction in the matter.

As it appears from the postal envelope serving the notice issued under Section 184 read with Section 185, that the same was received after the date of hearing of objection, accordingly, it can be concluded that the petitioner could not avail the opportunity to raise points of objection before the Hearing Officer. There has indeed been violation of principle of natural justice.

On this ground alone, the subsequent steps taken pursuant to the notice dated 5th August, 2023 are liable to be set aside and are, accordingly, set aside.

The Hearing Officer is directed to hear the issue in question in furtherance to the notice dated 5th August, 2023 and decide the issues as raised in the objection pending consideration afresh on merits by granting an opportunity of hearing to the petitioner. All points available to the petitioner may be raised before the Hearing Officer, at the time of hearing.

Steps shall be taken in the matter at the earliest but positively within a period of eight weeks from the date of communication of this order.

Learned advocate for the petitioner is directed to forward copy of the notice dated 5th August, 2023, objection dated 5th October, 2023 and all documents in support of its claim to the Assessor Collector (South) at the time of communicating the order of the Court.

WPO No. 1716 of 2023 is disposed of.

Affidavit of service is taken on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

(AMRITA SINHA, J.)

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