IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 29.11.2023

Orders Pronounced on : 18.12.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.12649 of 2023
and
W.M.P.Nos.12447 and 12448 of 2023
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1. CREDAI CHENNAI,
Represented by its President,
Mr.S.Sivagurunathan,
8th Floor, 8.E., Century Plaza,
526 (560-562), Anna Salai,
Chennai-600 018.

2. Shree Mahalaxmi Enterprises,
Represented by its Partner,
Mr.Pravin Jain,
Doshi Towers, 9th Floor,
No.156, PH Road,
Kilpauk, Chennai-600 010.

3. Magnum Infra,
Represented by its Managing Partner,
Mr.Suyash Surana,
No.2, Arvamuthu Garden Street,
Egmore, Chennai-600 008.

.. Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary to the Government,
Commercial Taxes and Registration Department,
Secretariat, Fort St.George,

Chennai-600 009.

2. Inspector General,
   Registration Department,
   Secretariat, Fort St.George,
   Chennai-600 009.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent's proceedings in Circular bearing No.5247/L1/2023-1, dated March 30, 2023 (impugned circular) and quash the same as being arbitrary, illegal, unlawful, ultra-vires the provisions of the Tamil Nadu issued Tamil Nadu Stamp (Constitution of Valuation Committee for Estimation, Publication and Revision of Market Value Guidelines of Properties) Rules, 2010 and principles of natural justice and direct the respondents, their officers, subordinates, agents or any other persons or entities claiming and/or acting under the said respondents not to do any acts, deeds and things and/or take any action in furtherance of the impugned circular.

For petitioner : Mr.R.Parthasarathy, Senior Advocate
for Mr.Rahul Balaji

For respondents: Mr.J.Ravindran, Addl. Advocate General
assisted by Mr.D.Ravichandran, Spl.G.P.

ORDER

The petitioner has filed the above Writ petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent's proceedings in Circular bearing No.5247/L1/2023-1, dated March 30, 2023 (impugned circular) and quash the same as being arbitrary, illegal, unlawful and ultra-vires the provisions of the Tamil Nadu Stamp (Constitution of Valuation Committee for Estimation, Publication and Revision of Market Value Guidelines of Properties) Rules, 2010 and principles of natural justice and direct the respondents, their officers, subordinates, agents or any other persons or entities claiming and/or acting under the said respondents not to do any acts, deeds and things and/or take any action in furtherance of the impugned circular.

2. The Circular fixing the market value in respect of the property, is under challenge in this Writ Petition on the ground that there is violation of principles of natural justice.

3. Brief facts, evident from the affidavit filed in support of the Writ Petition, are as follows:

(a) The CREDAI (Confederation of Real Estate Developer's Association of India) is a Federation of registered Association, an Apex Body of the organised real estate developers/builders across India. The first petitioner is the Chennai Chapter of CREDAI, which was established in the year 2011 with a vision of transforming the landscape of the Real Estate Industry and a Mandate to pursue the cause of housing and habitat, and CREDAI, Chennai has grown rapidly over the years. With over 189 members, CREDAI, Chennai is one of the largest Associations of Real Estate developers in the Southern Region of India with over 189 members. Its members include some of the most reputed and experienced developers in the City, who are committed to promoting professionalism, transparency and ethical business practices in the Real Estate industry. The first petitioner works closely with all stake-holders, with a view to ensure fair practices in property development. The main objective of the first petitioner-CREDAI is to espouse the cause and grievances of the members.

(b) By the Act No.13 of 2008, the first respondent-Government amended the Indian Stamp Act, 1899, and brought in Section 47-AA to constitute a 'Valuation Committee" under the Chairmanship of Inspector General of Registration and such other member as may be specified, for estimation, publication and revision of market value guidelines of properties in any area in the State. The guideline value so estimated, was to form the basis for determining as to whether there was under-valuation of the property while registering the transactions pertaining to immovable property and for payment of Stamp Duty. Under Section 47-AA(2), the Valuation Committee so constituted was to be the 'final authority' on all issues of policy formulization, methodology and administration of the guidelines for fixation of market value in the State.

(c) In exercise of the powers conferred under Section 75 read with Section 47-AA of the Act, the Government of Tamil Nadu issued Tamil Nadu Stamp (Constitution of Valuation Committee for Estimation, Publication and Revision of Market Value Guidelines of Properties) Rules, 2010, vide G.O.Ms.No.75, Commercial Taxes and Registration, dated 01.06.2010 and published the same, vide Tamil Nadu Government Gazette No.165, dated 01.06.2010.

(d) From the said Rules, it reveals that Valuation Sub-Committees are constituted to function under the Valuation Committee. The Valuation Sub-Committee are constituted for each Revenue District for the purpose of estimation of revision of the market guideline vale of the properties. Further, a detailed procedure had been laid down under Section 47-AA read with the Rules, where-under, after receiving instructions/guidelines from the Valuation Committee, the Sub-Committee ought to publish the intention of estimation or revision in the local newspapers and on the Notice Board of important offices. A period of 15 days will be allowed for receipt of objection and suggestion from the public.

(e) The suggestions and objections so received, ought to be considered by the concerned District Registrars and placed before the Valuation Sub-

Committee for discussion. Thereafter, the Valuation Sub-Committee is to prepare the statement showing average rates of agricultural lands, residential, commercial and industrial sites in village Municipal or any other local body area in its jurisdiction. The data so prepared is then sent to the Registrar of the concerned Revenue District and the Registrar, after verification, forwards it to the Valuation Committee and thus, the law lays down a specific, detailed, transparent and democratic process for arriving at any revision of the guideline value, which exercise is localised to each Sub-District so as to be true reflective of the real time fluctuation in immovable property values.

(f) While Rule 4 of the said Rules contemplates formulation of policy and revision every year, the Committee is also vested with the power to defer the revision where it deems fit not to do so and for the reasons to be recorded in writing. Pursuant to Section 47-AA read with the said Rules, the Valuation Committee has been revising the guideline values from time to time. In the year 2012, following the procedures laid down under the said Rules, a revision was given effect to from 01.04.2012.

(g) Thereafter, in the year 2017, the values were again revised, vide Circular dated 08.06.2017 bearing Ref.No.25735/C1/2017, and the first respondent/Government had inter-alia decreased the guideline value of all the lands across the State by 33% of the rates that were prevalent till 08.06.2017, with effect from 09.06.2017 and issued various directions in that regard by the second respondent. The Policy Note for the year 2017-18 issued by the Commercial Taxes and Registration Department, specifically refers to consultations with various stake-holders and deliberations conducted by the Valuation Committee prior to the revision.

(h) On 20.03.2023, the Finance Minister had, as a part of the Budget Speech for the Financial year 2023-24, inter-alia, announced that the first respondent/Government had decided to increase the guideline value of properties, after taking note of the fact that property prices have generally increased. Since determination of the guideline value by the Valuation Committee would be a time-consuming exercise, the first respondent/Government had decided to revet to the guideline values as was prevalent till June 8, 2017, as an interim measure, until such time as the estimation exercise is completed. The first respondent/Government had also decided to reduce the registration fee from 4% to 2%, with the stated objective of benefiting the poor and middle class, especially those who avail bank loans to buy home.

(i) On 30.03.2023, in clear departure from the procedures established by law and the revision exercises undertaken previously, the second respondent unilaterally issued the impugned circular *inter-alia* determining/fixing the guideline value to the rates that were prevalent till June 8, 2017, with effect from April 1, 2023. The impugned Circular referred to a meeting of the Valuation

Committee held on the same day, i.e. 30.03.2023, whereby the said Committee had agreed to adopt the rates that were prevalent till June 8, 2017 consequent to the exercise conducted earlier. Neither the speech made by the Finance Minister, nor the impugned Circular, mention any consultation/public hearing conducted prior to giving effect to the revision of guideline values.

(j) In the meeting of the Valuation Committee, the following decisions are taken:

> (i) It was informed to change the present guideline value on par with the market guideline value which was followed till 08.06.2017 with effect from 01.04.2023.
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> (ii) As per the agenda for the Valuation Committee Meeting, 3rd referred, the market guideline value having been changed to market guideline value that was followed till 08.06.2017, effective from 01.04.2023, the changed market value guideline is implemented in the same way as was applicable for all the village survey numbers and streets/cities falling within the 54 Registration Districts spread all over Tamil Nadu.
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> (iii) These valuations would be changed in Computer with effect from 01.04.2023.
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> (iv) The site value determined in the case of arable lands changed into sites, on or after 09.06.2017, to be compared with the value as on

08.06.2017, and the higher of the two values ought to be retained as the guideline value. To implement this, in Star 2.0 software, without effecting rise in valuation for cases for which value was determined through Fixation Module, without the previous classification and valuation, survey number alone would be uploaded into the computer. As the fixation of site value had been done by the District Registrars, they are instructed that the aforesaid determined value should be uploaded into the computer. In case new classification is required for this, it is informed that the same can be demanded to and got from the Deputy Registrar. This work ought to be completed before 06.04.2023.

(v) The details of valuation uploaded by the District Registrars, as above, the Deputy Registrars are requested to verify and submit report to the Registrar.

(vi) For cases where value has not been determined through Fixation Module in Star 2.0 software, which cases cannot be found in computer as "Value determining cases", the current market guideline value would be changed on the website on par with the market guideline value which was followed till 08.06.2017. It is informed that to make good the correct valuation for this sort of cases on the website, the Deputy Registrar, is to send report, with proper proof, to the Registrar. This report is to be received in this office before 10.04.2023. Then, these having been verified, accurate valuation would be substituted in the web site.

(vii) All the audit District Registrars are informed to bring to the personal attention of the Registrar any discrepancy in the details of site value determination uploaded by the District Registrars identified during audit verifying.

(viii) The market guideline value being changed in the website effective 01.04.2023, as has been informed in the Government notification, the concerned Sub Registrars/District Registrars are requested to verify that the guideline value is changed on par with value obtained on 08.06.2017."

(k) The increase in guideline value does not appear to be an interim measure as was indicated by the Finance Minister, but a final announcement of the guideline value itself, was to take effect from April 1, 2023.

(l) While the first respondent/Government had initially indicated the decision to revert to values as on 08.06.2017 as purely an interim measure pending the final determination by the Valuation Committee, the Valuation Committee, has, without following any of the procedures prescribed under law, unilaterally took the determination done almost a decade earlier as the prevailing guideline value, with effect from 01.04.2023. The effect of reverting to the values that were prevalent till 08.07.2017 translates to 50% increase in the guideline value. As such, the decision taken by way of the impugned Circular, has failed to achieve the stated objective, i.e. aligning the guideline value to reflect the actual fluctuation in property prices. The impugned Circular also appears to be at variance with the larger objective announced by the first respondent/Government, i.e. to ensure that real estate is affordable to all persons including those from the low and middle-income strata, as a consequence of which the registration fees were reduced by the first respondent/Government.

(m) The CREDAI, Tamil Nadu, had also addressed a representation dated 21.03.2023 and highlighted the difficulties that would be faced by the Real Estate Sector as a consequence of the decision to increase the guideline value, the various anomalies that such a revision has caused including a situation where the guideline value of land in some areas being higher than the actual market value. The petitioner-Association had submitted various suggestions/requisitions to the first respondent/Government. However, the respondents, without considering the same or without giving any opportunity of hearing to the petitioner/Association or its members who are the stake-holders to elaborate on the difficulties following the revision, have given effect to the decision to inter-alia increase the guideline value by almost 50% by way of the impugned Circular. Hence, the petitioners have preferred the present Writ Petition for the relief stated supra.

4. Learned Senior Counsel appearing for the petitioners submitted that the impugned Circular herein has been issued, whereby the guideline value for the properties had been revised to the rates that were prevalent till 08.06.2017 in exercise of the revision of guideline value, which has not been conducted as per the procedures contemplated under the Indian Stamp Act, 1899 before issuing the impugned Circular revising the market value.

5. Learned Senior Counsel appearing for the first petitioner/CREDAI also submitted that it is trite and settled principle of law that when the Statute contemplates a certain act to be formed in certain manner, the action should be done in such a manner or not done at all. The impugned Circular and the exercise behind the same, are not in conformity with the statutory mechanism and it deserves to be quashed.

6. Learned Senior Counsel appearing for the petitioners also contended that the revision of the guideline value of the property as per the rate that were determined almost a decade ago, which is ex-facie arbitrary, inasmuch as the

exercise carried out in 2012 will not be relevant in the present days.

7. Learned Senior Counsel appearing for the petitioners further submitted that the effect of artificially pegging the guideline value to the rates that were determined almost a decade ago, has resulted in increase in such value by 50%. The same apart from not being effective of the present market condition, has led to anonymous situation, where the guideline value is higher than the market value, which defeats the very concept of guideline value being a measure of under-valuation of the property and the capital gain being computed on the basis of the higher notional value and thereby, extracting more tax from the individuals.

8. The learned Senior Counsel appearing for the petitioners further submitted that the total transaction cost has gone up by 23% approximately, with the increase in guideline value, even though the registration charge has been reduced.

9. The learned Senior Counsel appearing for the petitioners also contended that the impugned Circular is at variance with the State objective to make use of it, affordable to all, especially from the persons from low and middle income group and the impugned Circular will discard the investment in the Real

Estate Sector, thereby, the impugned Circular violates the fundamental rights of the Real Estate people/members of the petitioners including the CREDAI. Hence, the petitioners have filed the present Writ Petition for the relief stated supra.

10. It is the further contention of the learned Senior Counsel appearing for the petitioners that the Circular violated the statutory provisions after fixation and before fixation of the guideline value and as per Rule 3 of the Tami Nadu Stamp (Constitution of Valuation Committee for Estimation, Publication and Revision of Market Value Guidelines of Properties) Rules, 2010, the valuation sub-committee has to be constituted and in the said Rules, Rules 3, 4 and 5 have been elaborately discussed and the role of the Valuation Sub-Committee had been stated therein. Rule 3 of the said Rules speaks about the constitution of Valuation Sub-Committee and it contains various experts as members. Rule 4 of the said Rules, deals with estimation of market value guidelines to be fixed and the procedures that are to be adopted. Rule 5 of the said Rules states about the guidelines for estimation of the market value by the valuation Sub-Committee. Rule 6 of the said Rules, gives the power to the Valuation Sub-Committee and therefore, now as per Rule 4 of the said Rules, every year, the Sub-Committee has to be constituted after following the procedures to recommend and to fix the value for the same. Thus, the statuttoy Committee has to act based on the recommendation of the Valuation Sub-Committee and the guideline value which

has to be done every year and based on that, the Valuation Sub-Committee may order for revision of market value guidelines in any specific area of Sub-District or District for rectification of any anomaly in estimation of the market value, whereas, in this case, the authorities have not followed the Rules.

11. It is also contended by the learned Senior Counsel appearing for the petitioners that, earlier, in the year 2012, the guideline value was determined based on the Sub-Committee report, and Circular was issued and before issuing the Circular, Rule 4 of the said Rules had been meticulously adopted and thereafter, in the year 2017, it was followed. But before issuing the impugned Circular dated 30.03.2013, it is seen that they have not adopted the said procedures and they have not obtained the valuation from the Sub-Committee and without following the procedures, they have revised the guideline value when the authority has to follow the statute and in particular, they have to follow the same in that particular way and they cannot simply bye-pass the provisions of law and pass order, which is in violation of the fundamental rights and principles of natural justice. In support of his submissions, learned Senior Counsel appearing for the petitioners relied on the following two decisions of the Honourable Supreme Court:

(i) 2003 (2) SCC 111 (Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd.):

"40. The statutory interdict of use and

enjoyment of the property must be strictly construed. It is well settled that when a statutory authority is required to do a thing in a particular manner, the same must be done in that manner or not at all. The State and other authorities while acting under the said Act are only creature of statute. They must act within the four corners thereof."

(ii) 2009 (15) SCC 769 (Lal Chand Vs. Union of India):

"**41.** It should however be noted that as contrasted from the assessment of market value contained in non-statutory basic valuation registers, the position may be different, where the guideline market values are determined by Expert Committees constituted under the State stamp law, by following the detailed procedure laid down under the relevant Rules, and are published in the State Gazette. Such State Stamp Acts and the Rules thereunder, provide for scientific and methodical assessment of market value in different areas by Expert Committees.

42. These statutes provide that such Expert Committees will be constituted with officers from the Department of Revenue, Public Works, Survey & Settlement, Local Authority and an expert in the field of valuation of properties, with the Sub-Registrar of the sub-registration district as the Member-Secretary. They also provide for different methods of valuation for lands, plots, houses and other buildings. They require determination of the market value of agricultural lands by classifying them with reference to soil, rate of revenue assessment, value of lands in the vicinity and locality, nature of crop yield for a specified number of years, and situation (with reference to roads, markets, etc.).

43. The rates assessed by the Committee are required to be published inviting objections/suggestions from the members of the public. After considering such objections/suggestions, the final rates are published in the gazette. Such published rates are revised and updated periodically. When the guideline market values, that is, minimum rates for registration of properties, are so evaluated and determined by the Expert Committees as per statutory procedure, there is no reason why such rates should not be a relevant piece of evidence for determination of market value

44. One of the recognised methods for determination of market value is with reference to the opinion of experts. The estimation of market value by such statutorily constituted Expert Committees, as expert evidence can therefore form the basis for determining the market value in land acquisition cases, as a relevant piece of evidence. It will be however open to either party to place evidence to dislodge the presumption that may flow from such guideline market value. We, however, hasten to add that the guideline market value can be a relevant piece of evidence only if they are assessed by statutorily appointed Expert Committees, in accordance with the prescribed assessment procedure (either streetwise, or road-wise, or area-wise, or village-wise) and finalised after inviting objections and published in the gazette. Be that as it may.

45. We have referred to this aspect only to show that there are different categories of basic valuation registers in different States and what is stated with reference to the stamp law in Andhra Pradesh or Uttar Pradesh, may not apply with reference to other States where State stamp laws have prescribed the procedure for determination of market value, referred to above."

Referring the above decisions of the Honourable Supreme Court, the learned Senior Counsel appearing for the petitioners prayed that the impugned Circular is liable to be set aside and that the authorities should follow the existing guidelines, until the revision of guidelines is fixed in the manner known to law.

12. Learned Additional Advocate General, assisted by the learned Special Government Pleader appearing for the respondents, submitted that the petitioners have no locus-standi to file the present Writ Petition itself, as the CREDAI cannot file the present Writ Petition of this nature. Learned Additional Advocate General further submitted that after the event, the learned Senior

Counsel appearing for the petitioners, himself stated that, for several decades, the value had not been changed and now the cost of living and price index raised are enormous and still there is no change of guideline value and so, the Expert Committee was constituted. Already, in the year 2012, based on the Expert Committee, the Sub-Committee had fixed and determined the guideline value, but due to some reason or the other, in the year 2017, they have revised it and now since they have followed the procedures in law and also earlier, in the year 2012, the Sub-Committee was in the process of effecting the changes.

13. As per the Budget announcement, and the letter from the Government, it is unanimously resolved to accept the uniform increase of guideline value. Therefore, there is no violation and since every year, it has to be revised, but however, from 2012 onwards, it has not been revised, even though in the year 2017, they have only reduced the value. In those times, the Association has not questioned the same, and they have enjoyed the benefit and suddenly, they have woken up from the deep slumber. The learned Additional Advocate General also stated that there is no locus-standi for the petitioners to challenge the said Circular.

14. The learned Additional Advocate General further submitted that there is no violation of the statutory provisions and Rule 6(2) of the Tamil Nadu Stamp

(Constitution of Valuation Committee for Estimation, Publication and Revision of Market Value Guidelines of Properties) Rules, 2010, says that, "Notwithstanding anything contained in these Rules, if for any reason the Committee could not either order or undertake revision of market value guidelines for any year, the same may be communicated to the Registrar of the district, who will issue instructions to all the Registering Officers to adopt the last revised guidelines, for the year for which the revision is not intended to be undertaken". Further, the authorities have not followed it. However, before revising the guideline value, the respondents had to follow the procedures contemplated under Section 4 of the said Rules. The authorities have not violated Rule 6 of the said Rules to enable the authority to revise every year, and the Sub-Committee need not be constituted. In any case, the Sub-Committee shall meet often and issue guidelines of proper statement and re-sends it to the Committee and therefore, the Chairman of the District Valuation Committee shall monitor the income and inform also in electronic media and shall be sent to the Registrar in the last week of every November of every calendar year. So, in every calendar year, the Sub-Committee has to meet. The Sub-Committee, in its report, revised the rates in the year 2012. Clause (2) of Rule 6 of the said Rules, is empowered to state that about every year, it is not possible and revision of market value for any year, could not be done, and the Registrar Office shall adopt the last revised guideline value for the year for which the revision is not intended to be undertaken every year. In case, for any reason they are not able to meet, then the Registering Officer shall deduct the last revised guidelines and the last revised guidelines of 2012, for being followed. Therefore, according to the learned Additional Advocate General, there is no violation of any Rule.

15. Learned Senior Counsel appearing for the petitioners, in reply, submitted that there was revision of the guideline value for the year 2012 and they have reduced the same in the year 2017. Both the above revision of the guideline values were duly published in the Gazette. If at all they have invoked Rule 6(2) of the said Rules, the last revised guideline only would be in 2017. But instead of adopting 2017 guidelines, they have adopted the Circular of 2012. Therefore, it also clearly shows that there is violation of statutory Rules. He further submitted that even for that also, they have adopted to follow the procedures in Rule 4(2) and even earlier, in the year 2012-2017, before revising that, it was to be notified by way of Notification and also to publish, but whereas in this case, that was not published and they have not followed the procedures and hence, they prayed to allow the Writ Petition.

16. Heard both sides and perused the materials available on record.

17. Admittedly, the respondents have issued the impugned Circular, which

is under challenge in this Writ Petition. The procedures have been mentioned in the said Rules of 2010. The market value and guideline value have to be fixed and Rule 3 of the said Rules says about the constitution of valuation sub-committee.

18. In the above background, it is useful to quote Rules 3, 4 and 6 of the Tamil Nadu Stamp (Constitution of Valuation Committee for Estimation, Publication and Revision of Market Value Guidelines of Properties) Rules, 2010, as follows:

> "Rule 3: Constitution of valuation sub-committee:
>
> (1) The Valuation Committee may constitute valuation sub-committee in each revenue district for the purpose of estimation and revision of the market value guidelines of the properties consisting of the following members--
>
> (i) District Collector - Chairman,
>
> (ii) District Revenue Officer;
>
> (iii) Deputy Inspector General of Registration
>
> (iv)d District Registrars of the concerned Registration district;
>
> (v) District Registrar of the Head Quarters of the concerned revenue district-Secretary;
>
> (vi) Assistant Director of Town Panchayat;
>
> (vii) Assistant Director of Panchayats;

(viii) Regional Director of Municipalities and

(ix) Representatives of local bodies

(2) The office of the valuation sub-Committee shall be located in the office of the District Collector and he is responsible to oversee the administration of the valuation sub-Committee. The District Registrar of the concerned revenue district shall deal with the correspondence and is also responsible for the compilation of the data relating to the market value of the properties, in accordance with the decision of the valuation sub-Committee.

Rule 4: Estimation of market value guidelines--

(1) The Valuation Committee shall, as far as possible in the first week of October of every calendar year, issue instructions along with general policy guidelines to all the valuation sub-committees in the State for the estimation of market value guidelines of properties for the next calendar year. Such instruction may be sent to any valuation sub-committee, at any time of the calendar year for the revision of the rates, if required.

(2) The valuation sub-committee shall on receipt of the instructions publish the intention of such estimation or revision, as the case may be, in the local newspapers and also on the notice board of

important offices. A period of 15 days may be allowed for receipt of objections and suggestions from the pubic and all such suggestions and objections so received, shall be considered by the concerned District Registrars and placed before then valuation sub-committee for discussion. The Valuation sub-committee shall meet as often as it may require to discuss and decide on the estimation and revision of market value guidelines and prepare a statement showing the average rates of agricultural lands, residential, commercial and industrial sites in village municipal or any other local body area in its jurisdiction as specified in these rules. The data shall be arranged Village and local body wise and the statement shall be prepared in Form A and signed by the Chairman and the District Registrars of the concerned Registration district of the valuation sub-committee. The data so prepared shall be both in paper copy and in electronic media an shall be sent to the Registrar of the concerned Revenue district, in the last week of November of every calendar year. The paper copy of the data shall be in a booklet form and the valuation sub-committee may also record its view on the suggestions and objections received from the public in it.

(3) The Registrar shall on receipt of the statement received under sub-rule (2), shall verify

and if he finds any discrepancy or omission may remit it back to the valuation sub-committee immediately for rectification or supply of the omission. Such references shall be attended by the valuation sub-committee and the statement be sent to the Registrar within 15 days from the date of reference. The Registrar of the concerned registration district shall finally examine the data and record his views in the appropriate column for any improvement or change and send the booklets and soft copies of the same to the valuation sub-committee in the first week of December for approval.

Rule 6: Revisions, special revisions and rectification of anomalies-- (1) The Valuation Committee may defer revision of market value guidelines in respect of any specified sub-district or district or all the sub-districts or any local body areas, for reasons to be recorded.

(2) Notwithstanding anything contained in these rules, if for any reason the Committee could not either order or undertake revision of market value guidelines for any year, the same may be communicated to the Registrar of the district who will issue instructions to all the Registering Officers to adopt the last revised guidelines, for the year for which the revision is not intended to be undertaken.

> (3) The Valuation Committee may order for revision of the market value guidelines in any specified area of a sub-district or district for rectification of any anomaly in the estimation of market value, and may for reason to be recorded also order for special revision of market value guidelines of any sub-district or district."

19. Further, earlier, in the year 2012, the guideline value was fixed following Rule 4 of the said Rules. In 2012, they have followed the Rules and they have fixed the market value guidelines, which was duly published and implemented. Thereafter, in the year 2017, the said earlier 2012 market value/Circular was revised and during this period also, they have followed the procedures and implemented the same. Before issuing the present Circular, Rule 4 of the said Rules relating to estimation of market value guidelines, have not been followed. Even assuming that it has been followed in the manner known to law, the State Government would say that every year, the Sub-Committee has to be convened and report be filed and it is for the Department to implement or not and if they wanted the Sub-Committee report, revising the value based on the Sub-Committee's report, then they have to adopt the procedures and publish the same in the Gazette and based on the Gazette, they have to follow the

market value/guideline value for the purpose of registration. In this case, while issuing the impugned Circular, the authorities have not followed the procedures.

20. The learned Additional Advocate General clearly admitted the facts and pointed out Rule 6(2) of the said Rules and in case they have not followed the report of the Sub-Committee, they can follow the last guideline value/market value fixed earlier.

21. In this case, the previous Circular was only in the year 2017 and the impugned Circular shows that they are following the previous guidelines of 2012 and therefore, the contention of the learned Additional Advocate General in this regard is not acceptable. Even for that also, in the year 2012, revised guideline value was fixed, but in the year 2017 only, based on the Sub-Committee's report, they have reduced it considerably and the guideline value was reduced and at that time, based on the Sub-Committee's report, and the procedures were followed and published in the Gazette and they have also implemented it.

22. Now, while revising the guideline value, either they have to get the Sub-Committee's report/expert's report and the statutory evaluation Committee should fix it and before revising that, they have to follow the procedures like calling for objections from the public, etc., and thereafter, fix it and revise it and

they have to be made public, but whereas, in this case, they have not done it, and therefore, as pointed out by the learned Senior Counsel for the petitioners, it has to be done in the manner known to law.

23. No doubt, the Government has got every power to revise the guideline value/market value based on the prevailing situation and therefore, Rule 3 of the said Rules says about the constitution of the Valuation Committee and it clearly shows that several experts shall form part of that Committee and based on their report, and after scrutinising all those facts, the opinion of the public is also invited and thereafter, they can fix it.

24. The Court is not expert to fix the valuation and for that, already there is a statute. When once there is a statute to design the rates in a particular manner, they have to be done only in that manner, but the authority before adopting the method, had to duly follow the procedures in the manner known to law.

25. Therefore, in this case, it is apparent that before issuing the impugned Circular, the authority/Government has not followed the statutory provisions and therefore, the impugned Circular violates the principles of natural justice.

26. Though the learned Additional Advocate General says that there is no locus-standi for the petitioners to challenge the Circular, violation of statutory

conditions can be challenged by anyone and therefore, it is only in the above circumstances, the contention of the learned Additional Advocate General is not acceptable, and the impugned Circular is accordingly set aside. However, the respondents are directed to follow the procedures enunciated under Rule 4 of the said Rules and revise the market value/guideline value in the manner known to law, until the existing procedures are followed.

27. Even assuming that they have followed last revised guidelines, they have to follow the procedures as contemplated in the relevant Rules. In this case, that has not been done. Hence, the impugned Circular is arbitrary and the same is quashed, and until the new guidelines are framed in the manner known to law, the respondents have to follow 2017 guidelines which is the last revised guidelines as per the Rules.

28. With the above observations/directions, the Writ Petition is allowed. Revising the prevailing rates up-to-date, and until then, they have to follow the existing Rules.

18.12.2023

Index: Yes/no
Speaking Order: Yes/no
Neutral Case Citation: Yes/no

cs

To

1. State of Tamil Nadu,
   Rep. by its Secretary to the Government,
   Commercial Taxes and Registration Department,
   Secretariat, Fort St.George,
   Chennai-600 009.

2. Inspector General,
   Registration Department,
   Secretariat, Fort St.George,
   Chennai-600 009.

P. VELMURUGAN, J

cs

Pre-delivery Order

in W.P.No.12649 of 2023

Order pronounced on: 18.12.2023