Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 448 OF 2024

1. Joaquim Santana Jose Almeida, aged 78 years, Engineer,

2. Maria Ana Ivette Clotildes Peres e Almeida, aged 72 years, housewife,

   Both residing at H. No. 669, behind Durga Petrol Pump, Fatorda, Margao, Goa 403602.

3. Alister Noel Almeida, aged 44 years, residing at H. No. 202, Opp. St. Joaquim Chapel, Borda, Margao, Goa 403 602.

4. Francisco do Rosario Almeida, aged 74 years,

5. Grancinda de Conceicao Almeida, aged 58 years, both residing at Flat BF 1, Chapel View Apartments, Near St. Joaquim Chapel, Borda, Margao, Goa 403 602.

6. ~~Manuel Maria do Rosario Almeida, aged 69 years, residing at H. No. 669, behind Durga Petrol Pump, Fatorda, Margao, Goa 403 602~~.

   Deleted in terms of order dated 27.11.2024

   Represented by PoA Petitioner No. 1, Mr. Joaquim Santana Jose Almeida. ... PETITIONERS

Versus

1. Margao Municipal Council, Municipality Building, Margao, Goa 403 601. ... RESPONDENT

***

Mr. M.B. Da Costa, Senior Advocate with Ms. Isabel Bruto Da Costa and Mr. Nash Monteiro, Advocates for the Petitioners.

Mr. Vinoj K. Daniel, Advocate for the Respondent.

CORAM: BHARATI H. DANGRE & NIVEDITA P. MEHTA, JJ.

DATED: 9th JUNE 2025

ORAL JUDGMENT: (per BHARATI H. DANGRE, J.)

1. Rule. Rule is made returnable forthwith.

2. The Petitioners are aggrieved by a communication received from the Margao Municipal Council on 24.09.2021 thereby revising the house tax in respect of Shop Nos. C-1 to C-6 at Atlas Business Centre, Aquem, Margao, Goa.

3. The learned Senior Counsel representing the Petitioners has invited our attention to the notice dated 05.03.2017 regarding the assessment of tax under Section 115(1) of the Goa Municipalities Act, 1968 (hereinafter referred to as the Act, for short), which was issued in terms of Section 111(2) of the Act, assessing the building and determining the annual rent, based on which tax assessment had been worked out. According to the Petitioners, this called for an objection to be sent to the Chief Officer, Margao Municipal Council within the time stipulated therein.

By inviting our attention to Section 111 along with Section 115 of the Act, which contemplated public notice of time fixed for lodging objections, the learned Senior Counsel would submit that the Act itself prescribes the procedure how the objections shall be dealt with, to be followed by authentication of list of assessment.

Section 118 of the Act, which provide for the conclusivity of the list and its authenticity, is made subject to such alterations as may be made under the provisions of the subsequent section and the result of any Appeal or Revision preferred under Section 164 or 166 of the Act.

Mr. Costa has invited our attention to Section 120 of the Act, which categorically prescribe that assessment of every property in the municipal area shall be as far as possible done not less than once in four years, and once it is done, it shall remain in force for four years. The publication of the authenticated assessment list shall be done not later than the 31st day of July of the official year to which the list relates.

4. In the backdrop of the statutory scheme, Mr. Costa has dealt with the preliminary objection raised on behalf of the Municipal Council that a remedy of Appeal lies under Section 164 of the Act, against any claim for taxes or other dues included in the bill presented to any person under Section 145 or any other provisions of the Act. He has invited our attention to the impugned order on page no. 48, which revises the house tax assessment, contemplated by the letter dated 05.03.2017 i.e. on expiry of four years and the basic submission advanced on behalf of the Petitioners, which is also reflected in their representation addressed to the Chief Officer on 21.02.2022, it being amounting to a fresh assessment.

5. By relying upon Section 120 of the Act, it is the argument advanced on behalf of the Petitioners that revision of the house tax and reassessment are two distinct concepts as revision is revision in rate of taxes whereas reassessment is a fresh assessment and therefore, as per Section 120 of the Act, once an assessment is made by the Municipal Council it remains in force for four years and the reassessment can only be done after four years. However, when the Municipality intends to reassess the house/property for house tax, it shall follow the Rules laid down for the said purpose and it is imperative for the Municipality to prepare the assessment list and the assessment has to be done ward wise.

6. In the wake of the aforesaid, an objection is raised that the shops cannot be reassessed for house tax as there is no power vested in the Authority to do so, once the assessment is complete and therefore, reassessment or revision of taxes is unsustainable.

It is a trite position in law that if any act is required to be done by following the particular procedure prescribed, then in that case, if there is a variation to be undertaken, it must follow the same course of action. If for the purpose of reassessment, the Act of 1968 contemplate lodging of objection, then if the tax is reassessed, which according to the learned Counsel for the Municipal Council is on the basis of the determination of rent as per the deed of lease, in our considered opinion, before the Petitioners are saddled with the said demand, they ought to have been afforded an opportunity of hearing.

It is the stand of the Municipal Council that the demand raised towards the house tax for the remaining current financial year is based upon the figures of rent in the lease agreement and in that contingency, if the revision of tax is contemplated by the Municipal Council, then the Petitioners ought to have been afforded an opportunity of hearing, as we find that they have immediately represented the Municipal Council, raising their grievance and in specific by addressing a communication to the Director of Goa Rajee Auto Private Limited that they are not agreeable for deduction of tax amount from the rental amount.

It was thus necessary for the Municipal Council to determine as to whether the Petitioners are liable for the revision in the house tax and we deem it appropriate to remand the proceedings to the Municipal Council, to consider the stand adopted by the Petitioners as they have specifically addressed the communication to the Municipal Council on 21.02.2022 raising their grievance. Before determining the liability, the Petitioners shall be heard.

Though we are informed that the entire amount due under the demand notice has been already paid after deducting it from the rent payable by the tenants, upon a conclusion being derived that the amount is not liable to be paid, it shall be refunded to the Petitioners.

We must express that we have not touched the merits of the matter and leave the contentions of the parties open to be adjudicated by the Municipal Council.

We expect the decision to be taken within a period of six weeks from today.

7. The Petition is disposed of.

NIVEDITA P. MEHTA, J. **BHARATI H. DANGRE, J.**

Signed by: ESHA SAINATH VAIGANKAR
Designation: Personal Assistant
Date: 11/06/2025 15:11:14