



GAHC010018752015

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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4637/2015

VIKRAM AHAND CHOUDHURY AND 2 ORS.
S/P LATE KANAK CHOUDHURY, R/O A.K. AZAD ROAD, REHABARI, WARD
NO. 32 OLD/14 NEW HOLDING NO. 153 O/10853270 N, DIST. KAMRUP M,
ASSAM.

2: OSHIMA CHOUDHURY
D/O LATE KANAK CHOUDHURY
W/O BHAKTI PRASAD SONWAL
R/O DWARKA
SECTOR 18-B
NEW DELHI.

3: URASHIMA ARYAN
D/O LATE KANAK CHOUDHURY
W/O DIGANTA DAS
R/O CHEISTIANBASTI
ANANDA NAGAR
GUWAHATI-5

VERSUS

THE GUWAHATI MUNICIPAL CORPORATION and 2 ORS
REP. BY ITS MUNICIPAL SECRETARY HAVING ITS OFFICE AT UZANBAZAR,
GUWAHATI-1. DIST. KAMRUP M, ASSAM.

2: THE COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
PANBAZAR
GUWAHATI-1.

3: THE DEPUTY COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
PANBAZAR
GUWAHATI-1



B E F O R E
HON'BLE MR. JUSTICE DAVASHIS BARUAH

Advocates for the petitioners : Mr. M. K. Choudhury, Sr. Counsel

Mr. P. Bharadwaz, Counsel.

Advocates for respondents : Shri Mr. S. Bora, SC, GMC.

Date(s) of hearing : 01.02.2024

Date of judgment : 01.02.2024

J U D G M E N T & O R D E R

Heard Mr. M. K. Choudhury, learned Senior Counsel assisted by Mr. P. Bharadwaz, learned counsel for the petitioners. Also heard Mr. S. Bora, learned Standing Counsel GMC.

2. The original petitioner herein, Kanak Choudhury (since deceased) was the owner of three holdings being Holding Nos. 10854250(N)/31(A) (Old), 10853270(N)/153(O) and 10852040(N)/31(O) of Ward No. 22(O)/32(N) of the Guwahati Municipal Corporation. In the year 1990, the Annual Ratable Value for Holding No. 31 was assessed at Rs. 17,550/-. In respect to the Holding No. 153, the Annual Ratable Value was assessed at Rs.7810/- and in respect of Holding No. 31(A), the Annual Ratable Value was assessed at Rs. 9675/-.

3. The records reveal that the Commissioner of the Guwahati Municipal Corporation had issued a communication on 12.09.2008 to all the Deputy Commissioners of the Guwahati Municipal Corporation to implement fresh assessment for property tax including reassessments *w.e.f.* second quarter of



2008-09. The land valuation which was fixed by the Deputy Commissioner, Kamrup (M) was enclosed to the said communication. It is relevant to take note of that in respect of A. K. Azad Road which was within Ward No. XXII and thereafter Ward No. XXXII, the value of the land had increased manifold. For example, A. K. Azad Main Road, the land value which was Rs 3,50,000/- became Rs.10,00,000/-, the by-lanes which were motorable the land value which was Rs.1,50,000/- became Rs. 7,50,000/- and the by-lanes which were not motorable which was Rs.80,000/- became Rs. 4,00,000/-.

4. The GMC authorities, more particularly the concerned Deputy Commissioner woke up almost after 6 years from the date of the communication dated 12.09.2008 and issued notices dated 14.12.2014 to the original petitioner in terms with Section 158 (2) of the **Guwahati Municipal Corporation Act, 1971** (for short the Act of 1971). In the said notices, it was proposed that the Annual Ratable Value for Holding No. 10854250(N)/31(A) (Old) which was Rs.7810/- would be Rs.1,15,124/-; in respect to holding No. 10852040(N)/31(O), the Annual Ratable value which was Rs.17,550/- was proposed to be Rs.2,26,811/- and in respect to Holding No. 10853270(N)/153(O), the Annual Ratable Value which was Rs.9675/- would be Rs.94,859/-. The original petitioner herein was given the liberty to file objection if any against the proposed amendment to the assessment list. The records reveals that the original petitioner duly submitted objections on 03.01.2015 and thereupon on 11.03.2015, the Commissioner of the Guwahati Municipal Corporation informed the original petitioner about the reassessment made to his holdings and the petitioner was directed to pay the property tax fixed as per the reassessment. It is relevant to take note of that the reassessments made to the holdings of the petitioner though done after 03.01.2015 and before 11.03.2015

dated back to the second quarter of 2008-09. The petitioner thereupon had challenged the reassessment so made to his holdings by way of filing the instant writ petition. This Court though issued notice but there was no interim order passed.

5. During the course of the hearing this Court duly enquired with the learned counsel appearing on behalf of the petitioners as well as the respondents as to what is the present status taking into account that there was no stay order passed and as to whether any future bills have been issued pursuant to the reassessment of the holdings in question. It has been submitted at the Bar that in view of the pendency of the instant writ petition, nothing has been done so far.

6. There is an affidavit-in-opposition filed by the respondent nos. 1, 2 & 3. This Court finds it relevant to take note of the paragraph no. 6 of the said affidavit-in-opposition and the same is re-produced herein under:-

“ 6. That with regard to the statement made in Paragraph 4 of the instant writ petition the deponent begs to submit that after the reassessment the Petitioner is allowed to submit his objection if any as per rule. Accordingly the Petitioner has submitted objection on 03.01.2015. In response to the above objection the Guwahati Municipal Corporation has informed the Petitioner vide letter no. GTX/CZ/50/2014/18/34 dated 11.03.2015 (Annexure-D of the writ petition) stating that the reassessment has been done as per order no.GTX/CZ/10/2008/6 dated 12.09.2008 and it is lawful.”

7. From the above quoted paragraph, it would reveal that the petitioner was allowed to submit objection and thereupon the petitioner submitted his objection on 03.01.2015. Subsequent thereto on 11.03.2015, the petitioner was informed about the reassessment.



8. In the backdrop of the above, the question therefore arises is can there be reassessment of the assessment list made retrospectively from the 2nd quarter of 2008-09 that to when the notices were issued on 04.12.2014 in respect to the three holdings and the original petitioner after filing the objections was duly informed on 11.03.2015 about the reassessment. The answer to the same can be found from the perusal of the Section 158 of the Act of 1971 which empowers the Commissioner with approval of the Committee to amend the assessment list at any time. This power which has been conferred under Sub-section (1) of Section 158 includes the power of increasing or reducing for adequate reasons, the amount of any ratable value and also and of the assessment thereupon. The proviso to Sub Section (1) of Section 158 of the Act of 1971 further mandates that no person shall by reasons of such amendment become liable to pay any tax or increase of the tax in respect of any period prior to the commencement of the year in which the amendment is made. Sub section (2) of Section 158 of the Act of 1971 is very relevant taking into account that an obligation has been cast upon the Commissioner before making any amendment to give notice to the person affected by the amendment, of not less than one month that he proposes to make the amendment and after considering any objections which may be made by such person, make any amendment if deemed, so necessary.

9. In the instant case, it would be seen that it was only on 04.12.2014 that the notice was issued and pursuant thereto within 30 days, the original petitioner duly submitted his objections on 03.01.2015. It was only on 11.03.2015, the petitioner was duly intimated about the reassessment made. Under such circumstances, it is the opinion of this Court that the reassessment



so made has to be made applicable only *w.e.f.* 11.03.2015 and not prior to that.

10. In that view of the matter, this Court therefore declares that the reassessment of the petitioner in respect of the holding nos. 10854250(N)/31(A) (Old), 10853270(N)/153(O) and 10852040/31(O) shall be deemed to have been made *w.e.f.* 11.03.2015 and on the basis thereof the respondent authorities, more particularly the GMC authorities would raise appropriate demand notices for payment of the property tax. It is made clear that any notice of Demand issued for the period prior to 11.03.2015 on the basis of the reassessment done to the above holidays of the petitioners cannot be given effect. However, liberty is given to the GMC authorities to issue Demand Notices on the basis of the above declaration.

11. With the above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant