(1994) 07 DEL CK 0069

In the Delhi High Court

Case No : Civil Miscellaneous Appeal No''s. 2712 and 4403 of 1993

Savitri Devi APPELLANT

Vs

Municipal Corporation of Delhi RESPONDENT

Date of Decision : 14-07-1994

Acts Referred:
Delhi Municipal Corporation Act, 1957 — Section 126, 126(1)

Citation : (1994) 55 DLT 391

Hon'ble Judges : M. Jagannadha Rao, J;A.D. Singh, J

Bench : Division Bench

Advocate : H.L. Narula and Amita Gupta, for the Appellant;

Judgement

Anil Dev Singh, J.

(1) Rule D.B.- The Writ Petition is preferred on the basis of an exemption certificate dated 23/10/1988 and contending that the notice dated 13/01/1993 proposing to enhance the rateable value from Rs.34,480.00 to Rs. 6 lakhs is illegal and without jurisdiction in view of the exemption certificate .After receiving the notice, the petitioner wrote a letter dated 30/04/1994 informing the respondent that they have not made any alteration or deviation or addition or modification and have not made any fresh construction, after 23.10.88.

(2) When the matter came up before this Court on 18/03/1994, it was conceded by Counsel for the respondents that it was wrongly stated in the counter affidavit of the Mcd that additional construction were carried out in the building in question. The learned Judges pointed out that they were unable to appreciate as to how the affidavit was filed without verification of the correct facts .They however, directed the Mcd to look into the matter and submit a report in writing.

(3) Thereafter a report has been submitted by the Assessor and Collector Mr.V.C. Chaturvedi dated 13/04/1994. After referring to the inspection report dated 28/02/1992 and other acts he concluded in para 2.25 that this was a case in which there were additions/alterations and renovations in the building which had

escaped assessment even when the 86-87 assessment was made. In other words, he stated that even before the earlier assessment was made on 2 7/01/1988 there was an escapement of facts in a such as the petitioner allegedly suppressed certain additions and alterations which were made already.

(4) The question arises as to whether the petitioner should not have a reasonable opportunity in explaining his version of the facts and law before treatable value is to be increased from Rs. 34,480.00 to Rs. 6 lakhs. The petitioner case has been and is also before us that no additions had been made subsequent to the previous assessment of 1986-87 on the basis of which exemption certificate was granted on 23/10/1988. If the inspection report now finalised by Mr.Chaturvedi as stated above, docs not refer to any additions or alterations having been made up to 26/10/1988, the question will arise as to whether the assessment of the years 1986-87 could be re-opened on the ground of escaped assessment .In this context, it is also necessary to bear in mind the provisions of Section 126(4) of the Dmc Act.

(5) The show-cause notice dated 31/03/1993 proposing to enhance treatable value from Rs. 34,800.00to Rs. 6 lakhs docs not mention reasons or facts as to why the enhancement is necessary. Learned Counsel for the respondent has also placed before us the notice dated 5/03/1993 bearing No. 20389 by which it was proposed to make an assessment for the years 1988-89,89-90, 90-91 and 91-92. Learned Counsel wanted to contend that the concerned notice which was issued prior to the notice dated 13/01/1993 contains the necessary particulars and we asked Counsel let us know that details were shown there. Learned Counsel referred us to the following words which are in rubber stamp. They read as follows:-

"INCREASE in R.V. on account of additions, alterations, renovation, affixing of fixtures and fittings integral to the fabric structure. Increase in amount of rateable value after amendment in the Drc Act changing valuation of standard rent from 8.25/8.625 to 10% and excluding properties with the rent above Rs. 3,500.00 per month"

(6) The above are all the details mentioned in the notice as to why the existing grate able value from Rs. 34,480.00 increased to Rs. 6 lakhs and that too in the face of an exemption order one what except more details to this notice also.

(7) In our view, the opportunity given to the owner/occupier of the building must be meaningful and the printed form on the basis of which notice dated 5/03/1993 and 13/01/1993 are issued, do not conform to basic principles of natural justice. No details as to the additions or alterations etc. were specified in the above show cause notice. In our view, it is some details of additions or alterations ,fixtures and fittings etc. are to be furnished to the occupier/owner and a copy of the inspection report on the basis of which it is proposed to increase the rateable value are also to be given. Unless the show cause notice gives particulars, one cannot expect the owner/occupier to give effective reply.

(8) In these circumstances, we quash the notices dated 5/03/1993 and 13/01/1993. In the peculiar facts of this case, we direct the respondent to issue a supplementary show-cause notice giving all particulars mentioned above. After issuing supplementary notice, it will for the petitioner to submit an Explanation in regard thereto. Thereafter a hearing will be given to the parties and the questions of law will be disposed of while passing a reasoned order. Writ Petition is disposed of accordingly.