

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE**

Present:

The Hon'ble Justice Rai Chattopadhyay

WPO 3068 of 2022

M/s. Popat and Kotecha Property and Anr.

Vs.

Kolkata Municipal Corporation and Ors.

For the petitioners : Mr. Mainak Bose, ld. Sr. Adv.
: Mr. Shankarshan Sarkar
: Mr. Magnath Dutta
: Mr. Tanmoy Sett
: Ms. Sucheta Das

For the KMC : Mr. Alak Kumar Ghosh
: Mr. Fazlul Haque
: Ms. Piyali Sengupta

Judgment on : **15.06.2026**
Uploaded on : **15.06.2026**

Rai Chattopadhyay, J. :-

1. The instant writ petition is to challenge the alleged illegal 'Property Tax demands', subsequent 'demand information' and 'owner's information', as furnished by the respondent Kolkata Municipal Commission Authority, in their official website. The writ petitioner is also aggrieved with the order of the Hearing Officer dated December 24, 2019 along with the Rate Cards issued to it determining the revised Annual Valuation of the property and property tax and surcharge in accordance with the Annual Valuation, so revised. It is also aggrieved with the 20 supplementary bills demanding revised property tax, issued on the basis as above.
2. Therefore, the petitioner has prayed for in this writ petition inter alia that, Annual Valuation of Rs.22,15,290/- of the property as shown in the list of 'Property Tax demands' [being Annexure-P-20 to the writ petition], 'demand

information' [being Annexure-P-21 to the writ petition] and 'owner's information' [being Annexure-P-22 to the writ petition] may be quashed and set aside; that the three documents as mentioned above may be quashed and set aside in its entirety; the respondent may be prohibited to demand in respect of the supplementary bills for the period from 4th quarter 2016-17 to 4th quarter 2022-23 as shown in Annexures p- 20, 21 and 22 mentioned above; that the respondent may be directed to refund a sum to the tune of Rs. 1,97,092/- claimed from the petitioner as Property Tax on alleged illegal enhancement of the Annual Valuation of the property for the period from 4th quarter 2016-17 to 1st quarter of 2018-19 and 3rd quarter of 2022-23; that the respondent be directed to issue all kinds of bills including the peremptory demands and supplementary bills and also the notice of hearing, be afforded with the opportunity of filing objection and being heard in accordance with law, prior to enhancement of the Annual Valuation of the property, if at all.

3. The concerned property is at 6, Maulana Shawkat Ali Street, Kolkata-700073, formerly known as Collotula Street. The same is owned by the Official Trustee of West Bengal. The writ petitioner No.1 is the lessee of the said property, who has been granted lease for a period of 99 years commencing from August 1, 1982 and by dint of the lease deed dated March 24, 1993.
4. The petitioner has filed several writ petitions before, against the same respondent concerning the same property. However, bereft of any unnecessary details, let the relevant facts culminating into the present writ petition be summarized as herein bellow.
5. An order of this Court dated November 22, 2019, in APO No.134 of 2019 has prompted the respondent Authority/Hearing Officer, to initiate a process of hearing with respect to the valuation of the property. Let relevant portion of the said impugned order be quoted as bellow:

“The appellant cannot obstruct valuation of the subject property by the respondent corporation. When the writ application is still pending there is nothing to prevent such valuation subject to the result of the writ. Of course, we observe that this valuation exercise is to be undertaken observing all formalities prescribed by law, including issuance of notice upon the persons entitled to it.

It will be open to the appellant to make a representation to the respondent corporation by 5th December 2019 urging all those points which their learned counsel have made today. If such representation is made the respondent corporation will consider and decide the same upon hearing the appellant within three weeks from receiving the representation. Any decision on valuation or otherwise if taken by the respondent corporation, shall be placed before the learned single judge by way of a supplementary affidavit by the appellant.

Time to make the valuation report is extended by three months from date.

The valuation officer shall not be influenced by any observation of the trial court as well as of this Court.

The appeal (APO 134 of 2019) and the stay application (GA No. 2219 of 2019) are disposed of by the above order.

This order supersedes the impugned order dated 14th August 2019 to the extent indicated above.”

6. Pursuant to the above order of the Court, the writ petitioner has submitted a comprehensive representation dated December 4, 2019, before the Municipal Commissioner. According to the writ petitioner, such representation of it has never been considered by the respondent.
7. In the process of hearing before the Hearing Officer XV the authorized representative of the petitioner appeared and made submissions. He handed over to the Hearing Officer a copy of the previous representation under cover of a letter dated December 23, 2019. In those two letters the writ petitioner has put forth its objections as to the purported allegedly illegal assessment of the property Annual Valuation by the respondent. The authorized representative has informed the Hearing Officer that the building at the premises is fully let out to non-residential tenants except one room in occupation of the petitioner itself and also

submitted before the Hearing Officer a list of tenants/occupants and rent received from each of them respectively for the period of 4th quarter 1993-94.

8. The Hearing Officer's order is dated December 24, 2019, in which the valuation of the property was held in a manner as stated bellow:

<u>Effective Quarter</u>	<u>Valuation Decided</u>
4/1993-94 (G R)	AV Rs. 9,43,840/- (including NRAV Rs. 8,20,250/-)
4/1999-2000 (G R)	AV Rs. 11,20,250/- (including NRAV Rs. 9,84,300/-)
4/2005-06 (G R)	AV Rs. 13,30,710/- (including NRAV Rs. 11,81,160/-)
4/2011-12 (G R)	AV Rs. 20,13,900/- (including NRAV Rs. 18,49,390/-)

9. It is necessary to look into the order dated December 24, 2019, to find as to how the Hearing Officer has come to his findings. Let the relevant portion be quoted bellow:

"A.C. (N)/XV/241/19-20

Date of order: 24.12.2019

This order of revaluation arises from the appellate order passed by the Hon'ble Division Bench, Hon'ble High Court, Kolkata dtd. 22/11/2019 against the single bench interim order dtd. 14/08/2019 passed in W.P. No. 847 of 2013.

In the said order, the Hon'ble Division Bench has allowed the respondent KMC to make valuation of the said property within 03 (Three) weeks from 05/12/2019; i.e. the date of submission of the Appellant before KMC.

The assessee represented by Mr. Pravin Kr. Popat, partner of the superior Lessees Firm were also present. The KMC personnel including DAC (N) and AAC (Div-XV) were also present. The assessee had submitted a list of tenants, alongwith respective rents paid by them

and prayed for consideration of the same in calculating the Annual Valuation (AV) of the said premises w.e.f. 4/1993-94 (G.R.).

The KMC officials also gone through the list of tenants submitted by the assessee. It was pointed out that no documentary evidence including agreement and/or rent receipt in support of the rent paid by these particular tenants at that material period of time is produced/exhibited by the assessee.

Considered the submission of the assessee and the argument provided by the KMC officials against the same.

In the issue of acceptance of the tenant list alongwith respective rent paid at the material period of time 4/1993-94 that was submitted by the assessee during the course of hearing, it is held that as no supporting documentary evidence could be produced in support of the respective rents paid by the tenants at the period of 4/1993-94 & afterwards, the quoted rents cannot be accepted. Hence, no revision of rent paid by the respective tenants is allowed at this stage and the proposed tenant details alongwith corresponding rents prevails as per records of KMC.

The assessee has also prayed for the relief of 28% at the time of hearing on 23/12/2019, as included property tax, from rent paid by the tenants as per the order of Hon'ble Apex Court in the case of CMC & ors. Vs Motilal Naresh Kumar. However, in absence of registered agreement between the superior Lessee and the Sub-Tenants, no such relief is found admissible.

While making valuation of the said premises w.e.f. 4/1993-94 (G.R.), the area of 5722 SFT at 2nd floor vacated by the S.B.I. is taken as under owner's possession and the RR @ Rs. 2/- per sqft. is considered and in respect of owner's office of 220 SFT in 3rd floor, RR @ Rs. 4/- per sqft. is considered for commercial use.

In case of valuation of 02 (Two) nos. of towers on and from the period of 4/2011-12 (G.R.), the proposed rate of Rs. 20,000/- per month for each seems justified and hence accepted."

10. Hence, the said order of revaluation of the property was passed in terms of the Court's directions as mentioned above; the writ petitioner/assessee was represented by one of its partners; the document submitted by the writ petitioner before the Hearing Officer was taken into consideration but was not accepted due to the reason shown in the said order. It has been stated that no revised rent can be accepted due to the fact of nonavailability of any evidence

in support of the rent actually paid by the tenants of the property during 4th quarter of 1993-94 and afterwards. Other reliefs prayed for by the writ petitioner/assessee was also rejected for the reasons stated therein. Thereafter the Hearing Officer discusses as to what should be the valuation of the property and why and finally comes to the conclusion as regards the property valuation, as quoted in paragraph-8 above.

- 11.** The writ petitioner was supplied with the copy of the order of the Hearing Officer dated December 24, 2019, along with copies of purported objection dockets for different valuations done therein for the corresponding different quarters respectively. It was supplied with the copies of the alleged purported Rate Cards, mentioning the amount of Property Tax payable and the Commercial Surcharge against each period assessed from 4th quarter of 1993-94, till that time and also twenty supplementary bills for the period from 4th quarter of 1993 to 4th quarter of 2019, amounting to Rs.1,10,93,979/-. Later on the respondent has made further communication by cancelling the bills on the ground of apparent error and issuing fresh bills instead for the period from 4th quarter 2005-06 to 4th quarter 2020-21. Therefore, the petitioner has tabulated its tax dues in the following manner:

KOLKATA MUNICIPAL CORPORATION
PROPERTY TAX – SUPPLEMENTARY BILL

[illegible]

POPAT & KOTECHA PROPERTY

KMC SUPPLEMENTORY BILLS FOR 6, MAULANA SHAUKAT ALI STREET									
Sl. No.	Serial No.	Bill Date	Bill No.	From	To	No. of Qtrs	Presentation Date	Due Date	Amount
1	0084484	01.01.2021	2903401	04/05-06	01/07-08	6	08.01.2021	29.01.2021	11,04,612.00
2	0084485	01.01.2021	2903402	02/07-08	03/08-09	6	08.04.2021	29.04.2021	11,04,612.00
3	0084486	01.01.2021	2903403	04/08-09	01/10-11	6	08.07.2021	29.07.2021	11,04,612.00
4	0084487	01.01.2021	2903404	02/10-11	03/11-12	6	08.10.2021	29.10.2021	11,04,612.00
5	0084496	01.01.2021	2903417	04/11-12	01/13-14	6	08.01.2021	29.01.2021	16,89,348.00
6	0084497	01.01.2021	2903418	02/13-14	03/14-15	6	08.04.2021	29.4.2021	16,89,348.00
7	0084498	01.01.2021	2903419	04/14-15	01/16-17	6	08.07.2021	29.7.2021	16,89,348.00
8	0084499	01.01.2021	2903420	02/16-17	03/17-18	6	08.10.2021	29.10.2021	16,89,348.00
9	0084500	01.01.2021	2903421	04/17-18	01/19-20	6	08.01.2021	29.1.2021	16,89,348.00
10	0084501	01.01.2021	2903422	02/19-20	02/20-21	5	08.04.2021	29.4.2021	14,07,790.00
11	0084502	01.01.2021	2903423	03/20-21	03/20-21	1	08.01.2021	29.1.2021	2,81,558.00
12	0084503	01.01.2021	2903425	04/20-21	04/20-21	1	08.01.2021	29.1.2021	2,81,558.00
									1,48,36,094.00

- 12.** The petitioner has challenged the said order of the Hearing Officer dated December 24, 2019, by filing writ petition No. WPO 354 of 2020, which is still pending. Pursuant to an order of the Court passed in the same dated January 27, 2021, the petitioner has submitted an amount of Rs. 50,46,424/-, as per the bill dated January 8, 2021. It is further stated that subsequently the writ petitioner has deposited the entire dues of the respondent Municipal Authority within the stipulated time and without prejudice to its rights and contentions, to avoid any coercive action.
- 13.** Meanwhile on and from October 1, 2020, the Kolkata Municipal Corporation Incentive (Waiver of Interest and Penalty to the Property Tax Payers) Scheme, 2020, has come into effect. On an application the petitioner was supplied with the Letter of Intimation dated October 7, 2020, under the said Scheme, showing a demand of Rs. 11,41,749.65/-, after accounting for applicable waiver under the said Scheme. The petitioner has alleged about existence of anomaly in the Letter of Intimation as above and communicated about the alleged anomaly in its letter dated November 23, 2020, with a prayer for generating Letter of Intimation afresh.

- 14.** The writ petitioner has again challenged the supplementary bills as above and the Rate Cards issued being those allegedly in violation of the statutory provision, in a writ petition No. WPO 30 of 2021, praying inter alia for setting aside of the bills and the Rate Cards.
- 15.** After stating all these and other facts, now the petitioner has stated the core issues and background facts involved in the instant writ petition. It says that since thereafter the petitioner has not received any bills from the respondent Municipal Authorities. It has been stated that for the period from 1st quarter of 2022-23 to 4th quarter of 2022-23, the petitioner has procured the bills by downloading those from the official website of the respondent Corporation on April 14, 2022, though allegedly the same did not contain the name of the petitioner firm and has erroneously mentioned rebate of 5% only on the tax instead of 10% in accordance with law. It has been submitted that in all the previous property tax bills the respondent Authority has duly mentioned the petitioner's name and acknowledged the petitioner's status as a lessee under the original owner, as regards the said property, as a person responsible for payment of tax. Hence allegedly, in spite of the fact of execution of a lease agreement between the original owner of the property and the petitioner, the respondent Authority has intentionally avoided to acknowledge the petitioner's status as a lessee of the property any further and purportedly has not communicated the bill for the above period to it.
- 16.** The petitioner has found that the property tax bill in the official website of the respondent Corporation for the period of 3rd quarter of 2022-23, on October 22, 2022. There, for the first time, the writ petitioner has come to know that the Annual Valuation of the said premises was increased by the respondent, from Rs.20,13,900/- to Rs.22,15,290/-. According to the petitioner, this has been done without notifying it and/or granting it any opportunity to lodge objection and without affording public petitioner any

opportunity of hearing, which are otherwise that statutory mandates for the respondent Corporation, before it could enhance the Annual Valuation of the property concerned. The petitioner has stated that such fact of increase in the valuation is evident from the list of property tax demands under the heading 'payment status', as shown in the official website of the respondent Corporation. It is stated that along with the list of property tax demands under the heading 'payment status', in respect of the said premises, the detailed particulars of such property tax demands and the payments made thereof by the petitioner, has been narrated under the heading 'Assessee details'. The petitioner has stated that the list of property tax demands under the heading 'Assessee details' contains the supplementary demands on the basis of the increase in the Annual Valuation of the property for the period from 4th quarter 2016-17 to 4th quarter 2022-23 and reflected only 5% rebate instead of 10%, as provided under law. Allegedly all these has been done only unilaterally by the respondent, without affording any knowledge or opportunity of hearing to the writ petitioner, in gross violation of the statutory provision.

- 17.** Mr. Mainak Bose, learned senior counsel has represented the writ petitioners here. He submits that the petitioners have challenged the enhancement of the annual valuation of the premises from Rs. 20,13,900/- to Rs. 22,15,290/-, allegedly effected in October 2022 with retrospective effect from the 4th quarter of 2016-17, together with supplementary property tax bills raised on that basis. According to the petitioners the premises is a commercial building held under a long-term lease granted by the Official Trustees of West Bengal. No notice, hearing or opportunity of objection was afforded before the enhancement of annual valuation. The enhanced valuation and supplementary bills came to the petitioners' knowledge only through the KMC website. That, the enhancement was made behind their back and in complete violation of the procedure prescribed under the Kolkata Municipal Corporation Act, 1980. Mr. Bose has stated that although KMC initially admitted before the Court that the enhancement and supplementary bills

resulted from a system error and cancelled the same, it later adopted a contradictory stand in its affidavit-in-opposition by attempting to justify the enhancement.

- 18.** The writ petitioners have further alleged about gross violation of principles of natural justice by the respondent while affecting the upward modification of the Annual Valuation of the property. The petitioners contended that the annual valuation was enhanced without any prior notice, without affording an opportunity to the assessee/writ petitioner to file objections, without granting any hearing and without service of any order of enhancement. Accordingly, the enhancement was alleged to be void and liable to be quashed.
- 19.** It has been submitted further that enhancement of the Annual Valuation is contrary to sections 174 and 179 of the KMC Act. The petitioners argued that the annual valuation fixed before the 2006 Amendment of the statute continued to operate until implementation of the Unit Area Assessment Scheme. That, the Unit Area Assessment Scheme came into force from April 1, 2017. It has been stated that once the Scheme became operational, valuation could be determined only under the Unit Area System. Therefore, the writ petitioners say that the KMC lacked jurisdiction to revise the old annual valuation retrospectively from 2016-17.
- 20.** Mr. Bose has further contended that Annual Valuation could not be revised before expiry of the statutory period. He has relied upon the pre-amendment framework of Section 179 and argued that an Annual Valuation remained effective for six years. Since for the concerned premises the valuation had been determined in 2011, it could be revised only in 2017 and not earlier. He says that consequently, any retrospective revision from the 4th quarter of 2016-17 was contrary to the statutory Scheme. It is submitted that retrospective enhancement is impermissible in law. That, even assuming that a notice was issued in June/July 2022, the enhanced valuation could operate only prospectively. With reference to section 179 of the KMC ACT 1980 it is

submitted that the same envisages that revised valuation takes effect from the quarter succeeding issuance of notice. Therefore, the petitioners have also challenged retrospective enhancement from 2016-17, on the ground of that being impermissible in law.

21. So far as the enhancement of Annual Valuation of the premises from effected in October 2022 with retrospective effect from the 4th quarter of 2016-17 is concerned, it is stated that post-2006 assessments must follow unit area system. After the 2006 amendment of the statute and implementation of the Unit Area Scheme, no valuation could be made under the earlier annual valuation mechanism. Consequently, any notice allegedly issued in 2022 ought to have followed the Unit Area Assessment framework and not the pre-existing valuation system.
22. Referring to Sections 193, 196, 214 and 216 of the KMC Act 1980, the petitioners contended that the statute distinguishes between a "person primarily liable" and a "person liable". The Property Tax is primarily leviable upon the person specified under the statute. Therefore, demands raised upon the petitioners were erroneous, illegal and liable to be set aside. In this regard a judgment of the Supreme Court in **Calcutta Gujarati Education Society and Another versus Calcutta Municipal Corporation and Others** reported in **(2003) 10 SCC 533** has been relied upon and submitted that the KMC Act recognises a distinction between the "person primarily liable" and the "person liable"; liability for property tax must be fixed in accordance with the statutory scheme; a demand raised against a person not legally liable is unsustainable.
23. Lastly it has been submitted that an amount of Rs. 1,97,092/- was retained by the KMC after cancellation of the supplementary bills, for which the KMC had no statutory authority to keep such amount in a "suspense account". That, the excess amount is therefore refundable and ought to be refunded together with interest at the rate charged by KMC on delayed payments. A Division Bench

judgment of this Court in ***Abhishek Karnani versus Kolkata Municipal Corporation and Others*** reported in **2023 SCC OnLine Cal 99** has been relied on in this regard and submitted that where KMC wrongfully retains money belonging to an assessee, the assessee becomes entitled to interest; that, since KMC charges interest at 18% per annum on delayed tax payments, the same principle should apply when KMC retains excess amounts recovered from taxpayers. It has been submitted that therefore, the petitioners are entitled to interest at 18% per annum on the excess amount retained by KMC.

24. The other Division Bench judgment of this Court in ***Kolkata Municipal Corporation and Others versus Abas Nibas Pvt. Ltd. and Others*** reported in **2023 SCC OnLine Cal 3609**, has also been relied upon to submit that excess Property Tax recovered by KMC must be refunded; that, there is no authority in the KMC Act permitting unilateral adjustment or retention of excess tax in lieu of refund and consequently, KMC could not lawfully keep the amount in a suspense account or merely adjust it against future demands.
25. Thus Mr. Bose has placed the petitioner's prayers for quashing of the alleged illegal enhanced Annual Valuation fixed retrospectively from the 4th quarter of 2016-17 and quashing of the supplementary bills raised on the basis of such enhancement. Also, for refund of the excess amount collected/retained by KMC, along with interest.
26. The respondent KMC Authority has been represented by Mr. Alak Kumar Ghosh, learned advocate. The respondent Authority has contended that the annual valuation w.e.f. 4/2016-17 was fixed at Rs. 22,15,290/- (Fully Non-Residential) and supplementary bills @ Rs. 29,638/- were raised from 4/2016-17 to 4/2022-23 due to a system error and the Assessment Collection Department of Kolkata Municipal Corporation detected the said error and rectified the same by cancelling the erroneous annual valuation along with supplementary bill raised thereon. Regarding

refund of the amount Rs. 1,97,092/- which is lying in the suspense account of assessee no. 110432000059 of premises no. 6, Maulana Shawkat Ali Street, it is mentioned that PC demand of Rs. 2,96,377/- for the period 4/2022-23 is unpaid as on date and as per section 197 of Kolkata Municipal Corporation Act, 1980, the amount lying excess in the suspense account shall be refunded or allowed to be set off against any present or future demand of the Corporation under this Act and such excess amount in the suspense account shall not accrue any interest thereon.

- 27.** It is submitted that the subject premises is Premises No. 6, Moulana Shawkat Ali Street, bearing Assessee No. 110432000059. According to the municipal records, the recorded owner is the Official Trustee of West Bengal, while M/s Popat & Kotecha Property/petitioner No.1, is recorded as the lessee and the 'person liable' to pay Property Tax.
- 28.** The respondent Authority has referred to the petitioners' representation dated November 16, 2022, addressed to the Assessor-Collector (North), wherein the petitioners complained about their knowledge obtained from the KMC website that the Annual Valuation of the property had been enhanced by 10%, from Rs. 20,13,900/- to Rs. 22,15,290/- with effect from the 4th quarter of 2016-17 and supplementary bills had been generated accordingly. The petitioners alleged that the enhancement had been made without notice, hearing or opportunity to object and sought cancellation of the revised valuation and refund of the amount already paid together with interest.
- 29.** Mr. Ghosh has submitted that the impugned increase was not an isolated action concerning the petitioners' property but formed part of a city-wide policy decision taken by the competent Municipal Authority for properties which had not undergone revaluation for a long period. That the Authority decided to grant a standardised increase in annual valuation with retrospective effect from the 4th quarter of 2016-17, adopting different slabs depending upon the age of the last assessment.

- 30.** The categorisation made as to how to go about it, has been mentioned to be:
- 30% increase where no periodic or intermediate assessment had taken place since 1980;
 - 20% increase where no such assessment had been undertaken since 1990;
 - 15% increase where no assessment had been undertaken since 2006; and
 - 10% increase where properties had been revalued between 2006 and 2011 but not thereafter.
- 31.** It is further submitted that the exercise was carried out through a centralised computer system, notices under Section 184 of the KMC Act, 1980, were issued during July and August 2022 through the postal department, and supplementary bills were generated in respect of those assessees who did not lodge objections. The authority also fixed 2011 as the cut-off year, meaning that only properties whose last valuation stood at or before 2011 were intended to be covered by the exercise.
- 32.** The respondent then attempts to explain why the impugned enhancement was initially treated as erroneous. According to the respondent, the competent authority had intended the exercise to apply only to properties whose last valuation stood on or before the cut-off point of 2011. However, due to a misinterpretation of the authority's order, the Assessment-Collection (North) Department treated the relevant date as December 2011 rather than the 4th quarter of 2011-12. As a result, when the petitioners submitted their representation, the departmental officials initially believed that the petitioners' premises was not eligible for revision because its last revaluation had been affected with effect from the 4th quarter of 2011-12. Proceeding on the assumption that a computer-generated mistake had occurred, the department considered the enhancement to be erroneous.

- 33.** Thus the respondent has defended the enhancement made in the Annual Valuation of the concerned premises on the grounds that the enhancement arose from a general revaluation programme applicable to numerous properties; that the programme was implemented through a centralised computerised process pursuant to an administrative decision; the petitioners' grievance led officials initially to believe that their property had been wrongly included because of a misunderstanding regarding the 2011 cut-off date; and the subsequent controversy stemmed from this perceived misunderstanding rather than from any deliberate illegality. Hence, according to the respondent, it has acted within the legal parameters and in exercise of such power which is exclusively within its own domain, that mistake if any due to either inadvertence or communication gap or lack of understanding is ignorable and hence the writ petitioner as the assessee, is duty bound and obliged to comply with such decision of the Authority. Any challenge as to the same is therefore misconceived and writ petition is thus liable to be rejected.
- 34.** Having heard the learned advocates appearing for the respective parties and upon consideration of the materials placed before this Court, the principal question which falls for determination is whether the respondent Kolkata Municipal Corporation could lawfully enhance the Annual Valuation of the subject premises from Rs.20,13,900/- to Rs.22,15,290/- with retrospective effect from the 4th quarter of 2016-17 and raise consequential supplementary demands, without following the statutory procedure prescribed under the Kolkata Municipal Corporation Act, 1980 and without affording any notice, opportunity of objection or hearing to the petitioner.
- 35.** The material facts are largely undisputed. The Annual Valuation of the premises had earlier been determined pursuant to a hearing conducted in compliance with the order of the Hon'ble Division Bench dated November 22, 2019 and culminated in the order of the Hearing Officer dated December 24, 2019. Thereafter, in the year 2022, the petitioner discovered from the official website of the

Corporation that the Annual Valuation had again been enhanced by approximately 10% with retrospective operation from the 4th quarter of 2016-17. The petitioner asserts that no notice was ever served upon it, no opportunity to file objection was afforded, no hearing was granted and no order of enhancement was ever communicated to it by the respondent. Significantly, these foundational facts have not been effectively disputed by the respondent Corporation.

36. The respondent Corporation has sought to justify the impugned enhancement by referring to a purported city-wide policy decision under which properties not revalued for considerable periods, were subjected to standardised increases of 10%, 15%, 20% or 30% depending upon the age of the last assessment. However, the first and foremost difficulty with such defence is that the legal foundation of the alleged policy remains wholly absent from the records of the case. No resolution of the Corporation, no administrative order, no policy document, no circular, no minutes of any competent authority and no supporting materials have been disclosed before this Court. The existence of a policy cannot be accepted merely upon assertion. In matters concerning taxation and assessment of municipal property, authority must flow from the statute and not from administrative convenience. It is a settled principle of public law that every fiscal action must possess a clear statutory foundation. Municipal Authorities, being creatures of statute, cannot travel beyond the powers expressly conferred upon them by the statute itself. The doctrine of legality demands that where a statute prescribes the manner in which valuation is to be undertaken, the Authority must act strictly within such statutory parameters. Administrative instructions or internal decisions cannot supplant the legislative mandate. The Supreme Court has held in ***Partha Das versus State of Tripura, 2025 SCC OnLine SC 1844***, that executive instructions cannot supplant or override statutory provisions. The respondent's own affidavit reveals that the exercise was not founded upon any individual assessment of the premises concerned. Rather, it was undertaken through a centralised computerised process applying predetermined

percentage increases across broad categories of properties. Such an exercise, by its very nature, bears the characteristics of a general enhancement rather than a statutory assessment. Assessment under the KMC Act is not intended to be a mechanical mathematical escalation. The statute contemplates determination of valuation upon consideration of legally relevant factors applicable to the individual property concerned.

- 37.** No provision in the KMC Act, 1980, can be found to have authorised a blanket enhancement of annual valuation merely because a certain number of years have elapsed since the previous assessment. If indeed the thumb rule adopted by the authority was a 10% increase every six years, such percentage by itself does not constitute any legally recognised assessment methodology. Such enhancement could operate only if specifically authorised by statute. No such statutory source has been identified and shown by the respondent.
- 38.** Equally, the uncertainty surrounding the very basis of the exercise challenges the validity of the same. The respondent initially attributed the enhancement and supplementary bills to a system-generated error and proceeded to cancel the same. Subsequently, in the affidavit-in-opposition, an altogether different justification has been advanced. The respondent now contends that the exercise formed part of a larger policy and that the earlier cancellation occurred due to a misunderstanding regarding the cut-off date. Such inconsistent positions strike at the credibility of the decision-making process itself. The explanation offered by the respondent is wholly unsatisfactory. Instead of identifying any clear statutory source authorising the enhancement, the respondent attempts to explain the controversy by attributing it to a misunderstanding concerning whether the relevant cut-off was the year 2011 or the 4th quarter of 2011-12. Such an explanation does not answer the fundamental question. The issue is not whether the correct cut-off date was applied. The issue is whether there existed any lawful statutory authority at all for the

enhancement. On that crucial aspect the respondent remains conspicuously silent.

- 39.** Furthermore, the actual cut-off adopted by the Authority requires close judicial scrutiny. However, such scrutiny becomes impossible in the absence of any contemporaneous records, policy papers, resolutions or supporting documents. Courts exercising judicial review do not act upon assumptions. When a public authority seeks to justify a fiscal measure affecting citizens, it must produce the records demonstrating the source, rationale and authority for such action. The respondent has failed to do so.
- 40.** The Court also finds considerable substance in the petitioner's contention regarding applicability of the 2006 Amendment to the Kolkata Municipal Corporation Act. The petitioners have specifically argued that after introduction of the amended statutory regime and eventual implementation of the Unit Area Assessment Scheme, as and when it is, valuation exercises were required to conform to the framework introduced by the amendment. Significantly, this specific legal contention has never been meaningfully answered by the respondent Authority. No statutory analysis has been offered to demonstrate why the amended framework would not govern the field. No attempt has been made to reconcile the impugned action with the legislative changes brought about by the amendment. Even if this Court were to assume, for the sake of argument, that a policy decision of the nature asserted by the respondent Corporation had in fact been taken by the competent authority, the question would still remain whether such policy, by itself, could furnish a lawful basis for enhancement of Annual Valuation and consequent imposition of additional tax liability. The answer must necessarily be in the negative.
- 41.** Municipal taxation is not merely an administrative function. It is an exercise of sovereign fiscal power delegated by the legislature. Such power can be exercised only within the confines of the statute creating it. The Constitution of India draws a clear distinction between policy and law. While

policy may guide the manner of administration, it cannot itself create a tax burden, alter the incidence of taxation, modify the measure of assessment or enlarge the liability of a taxpayer unless such consequence is authorised by law. An executive or administrative decision, howsoever well-intentioned, cannot be permitted to assume the character of legislation. Article 265 of the Constitution embodies one of the most fundamental constitutional limitations upon the taxing power of the State. The mandate is couched in prohibitory language: "No tax shall be levied or collected except by authority of law." The expression "authority of law" has consistently been interpreted to mean a validly enacted law and not a mere executive instruction, administrative practice or departmental arrangement. The Constitutional requirement is not satisfied by demonstrating administrative convenience or policy necessity. What is required is a clear statutory source authorising the levy and collection.

42. The impugned enhancement, as sought to be defended, appears to rest not upon any identified statutory provision but upon an alleged policy of granting standardised percentage increases to categories of properties based on the age of their last assessment. Such a mechanism effectively alters the taxable base and consequently increases the fiscal burden borne by the assessee. Any measure producing such consequence must trace its legitimacy either directly to the parent statute or to valid delegated legislation framed thereunder. Neither has been shown to exist in the present case. Significantly, the respondent has not placed before this Court any rule, regulation, notification, circular having statutory force, or delegated legislative instrument authorising application of predetermined percentage increases in the manner alleged. In absence thereof, the purported policy remains merely an internal administrative arrangement. Such an arrangement cannot acquire legal efficacy merely because it has been implemented through a centralised computer system or applied uniformly across a large number of properties. Administrative repetition does not transform an unauthorised practice into a lawful one.

- 43.** The constitutional infirmity is further compounded by the fact that the alleged policy was never disclosed to the affected assesseees. The materials on record do not reveal the date on which such policy was formulated, the authority by whom it was approved, the criteria adopted for classification of properties, the rationale for selecting the percentages of 10%, 15%, 20% and 30%, or the basis upon which retrospective operation from the 4th quarter of 2016-17 was considered appropriate. A fiscal measure affecting citizens cannot be sustained upon undisclosed standards known only to the authority itself. Such opacity strikes directly at the guarantee of equality enshrined under Article 14 of the Constitution. Article 14 is not confined merely to prohibiting hostile discrimination. It also condemns arbitrariness in State action. Whenever public power affecting civil or pecuniary rights is exercised on the basis of undisclosed criteria, unstructured discretion or uncertain standards, the action becomes vulnerable to challenge as arbitrary. The doctrine against arbitrariness has long been recognised as an integral facet of Article 14.
- 44.** In the present case, the respondent seeks to justify enhancement of valuation on the basis of a classification allegedly linked to the year of the last assessment. Yet no material has been disclosed explaining why properties assessed before 1980 should attract a 30% increase, properties assessed before 1990 a 20% increase, properties assessed before 2006 a 15% increase and properties assessed between 2006 and 2011 a 10% increase. The percentages appear to have been selected without any disclosed empirical study, statutory criterion or objective assessment. In the absence of such foundational material, the classification itself becomes unacceptable, when scrutinized and reviewed judicially.
- 45.** Equally important is the principle that delegated authorities cannot achieve indirectly what they are not authorised to do directly. If the statute prescribes a particular methodology for determination of Annual Valuation, the Authority cannot circumvent that methodology by introducing a policy of standardised enhancement. To permit such a course would

be to allow administrative instructions to override legislative command. The rule of law does not countenance such inversion of constitutional hierarchy. The respondent's defence, if accepted, would create a precedent whereby fiscal burdens may be imposed upon citizens through undisclosed administrative decisions unsupported by statutory authority and insulated from public scrutiny. Such a proposition would be fundamentally incompatible with constitutional governance. Taxation is an area where legality, transparency and accountability are demanded with the greatest rigour. The more extensive the financial consequences of a decision, the greater becomes the obligation of the authority to demonstrate its source of power. Therefore, even assuming the existence of the alleged policy decision, this Court is unable to recognise it as a lawful source of authority for enhancement of Annual Valuation or imposition of consequential tax liability. The impugned action fails the Constitutional test under Article 265 because it lacks demonstrated authority of law. Simultaneously, it fails the Constitutional test under Article 14 because it proceeds upon undisclosed standards, unsupported classifications and arbitrary criteria incapable of objective scrutiny. On this ground alone, independent of the other infirmities already discussed, the enhancement of Annual Valuation and the consequential supplementary demands are liable to be struck down. In this regard a judgment of Supreme Court may be mentioned as a source of guidance, that is in ***Commissioner of Central Excise versus Larsen & Toubro Ltd., (2016) 1 SCC 170***. The Court has categorically held that the constitutional command contained in Article 265 admits of no exception. The levy as well as collection of tax must be traceable to a valid statutory source. Neither administrative practice nor executive understanding can create a fiscal liability where the legislature has not done so. The Court emphasised that there is no room for intendment in taxation and that a tax liability cannot be created by implication, executive understanding or administrative practice. Also, in ***Kumari Shrilekha Vidyarthi versus State of Uttar Pradesh, (1991) 1 SCC 212***, the Supreme Court has held inter alia that even where the State acts in

the realm of administration, its action must satisfy the Constitutional mandate of non-arbitrariness embodied in Article 14. Exercise of public power upon undisclosed standards or unstructured discretion cannot withstand judicial scrutiny.

46. It is a well-established principle that where a specific legal challenge is raised against administrative action and the authority fails to defend the same by reference to the governing statutory provisions, the Court draws an adverse inference. The absence of any defence on this aspect considerably strengthens the petitioners' challenge. In the facts of the present case, this Court finds no reason to reject the petitioners' contention that the post-amendment statutory regime governed the field and that the impugned exercise cannot be sustained within that prescribed framework under the statute.
47. The challenge founded upon Sections 174 and 179 of the KMC Act, 1980, also deserves acceptance. Under the statutory scheme, valuation is not an unfettered administrative exercise. The provisions contemplate assessment through a structured procedure and confer valuable rights upon the assessee. The statutory mechanism is designed to ensure transparency, fairness and participation by the affected person. The impugned action, effected retrospectively through a computer-generated enhancement, bypasses the safeguards embedded within the statute. The procedure adopted by the respondent stands in direct conflict with the requirements of Sections 184 and allied provisions of Chapter XII of the said Act. The statutory scheme contemplates issuance of notice to the person affected, communication of the proposed valuation, opportunity to lodge objections and consideration thereof by the competent authority. These safeguards are not empty formalities. They embody the legislative incorporation of the principles of natural justice. Audi alteram partem is not a mere procedural ritual. It constitutes one of the foundational pillars of fair administrative action. Whenever an Authority proposes to take a decision having civil or financial consequences, the person affected must be

informed of the proposed action and afforded an effective opportunity to oppose the same. The requirement becomes even more rigorous in fiscal matters where enhanced liabilities are sought to be imposed.

48. In the present case, the respondent has failed to establish that any notice was ever served upon the petitioner. No proof of service has been produced. No objection docket has been disclosed. No hearing record has been placed before this Court. No order enhancing valuation has been shown to have been communicated. The admitted position remains that the petitioner came to know of the enhancement only from the Corporation's website. Such a state of affairs is wholly incompatible with the statutory scheme and fundamentally destructive of procedural fairness.
49. The impugned enhancement, therefore, suffers from multiple incurable defects. It lacks a demonstrated statutory foundation. It is not based on an individual assessment undertaken in accordance with statutory criteria. It proceeds upon an undisclosed policy. It is sought to be justified through inconsistent explanations. It ignores the implications of the amended statutory regime. Most importantly, it has been affected in complete violation of mandatory procedural safeguards and principles of natural justice.
50. The judgments relied upon by the petitioners lend support to these conclusions. The decision in **Calcutta Gujarati Education Society (supra)** emphasises adherence to the statutory framework governing municipal taxation and liability. The judgments in **Abhishek Karnani (supra)** and **Abas Nibas Pvt. Ltd. (supra)** reiterate that municipal authorities cannot retain monies without authority of law and that excess recoveries must be dealt with strictly in accordance with statute. The principles emerging from these authorities reinforce the proposition that municipal powers, particularly fiscal powers, must be exercised strictly within the boundaries prescribed by law.
51. This Court cannot also remain oblivious to the manner in which the respondent Authority has conducted itself

throughout the proceedings. The records disclose an alarming degree of administrative indifference. A statutory authority entrusted with the sensitive and significant responsibility of municipal taxation is expected to act with transparency, fairness and accountability. Instead, the respondent has oscillated between contradictory stands, failed to preserve or produce foundational materials, attempted to justify serious civil consequences without demonstrating legal authority and proceeded in disregard of elementary procedural safeguards. Such conduct reflects a negligent, high-handed and arbitrary approach in the discharge of public duties. Public power is held in trust for the people and cannot be exercised in a manner that renders statutory safeguards illusory. The Court deprecates such conduct in the strongest terms.

- 52.** For all the reasons discussed above, this Court holds that the enhancement of the Annual Valuation of the subject premises from Rs.20,13,900/- to Rs.22,15,290/- with retrospective effect from the 4th quarter of 2016-17 is unsustainable in law. Consequently, all supplementary demands, demand information, owner's information and consequential tax liabilities founded upon such enhancement are equally liable to be set aside.
- 53.** Accordingly, the writ petition succeeds.
- 54.** The enhancement of Annual Valuation from Rs.20,13,900/- to Rs.22,15,290/- in respect of the subject premises, together with all consequential supplementary demands and related entries reflected in the records and website of the respondent Corporation, are hereby quashed and set aside.
- 55.** The respondent Corporation shall restore the valuation position as it stood immediately prior to the impugned enhancement.
- 56.** The respondent Corporation shall refund the amount of Rs.1,97,092/- retained pursuant to the impugned exercise or, if permissible under the statute and upon obtaining the petitioner's consent, adjust the same against lawful future

demands. Such exercise shall be completed within eight weeks from date.

- 57.** Liberty is reserved to the respondent Corporation to undertake any fresh assessment or valuation strictly in accordance with the provisions of the Kolkata Municipal Corporation Act, 1980 and the statutory regime presently governing the field. However, before taking any such action, the respondent shall issue proper notice, furnish all relevant materials, afford adequate opportunity to file objections and grant effective hearing to the petitioner.
- 58.** The writ petition No. WPO 3068 of 2022 is allowed and disposed of. There shall be no order as to costs.
- 59.** Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)