

(1991) 07 CAL CK 0007

Calcutta High Court

Case No: C.R. No. 7256 (W) of 1984

Life Insurance Corporation of
India

APPELLANT

Vs

Commissioner of Asansol
Municipality and Others

RESPONDENT

Date of Decision: July 24, 1991

Acts Referred:

- Bengal Municipal Act, 1932 - Section 148

Citation: (1992) 1 CALLT 203

Hon'ble Judges: Susanta Chatterji, J

Bench: Single Bench

Advocate: N.R. Majumdar and N.K. Bose, for the Appellant; Sudish Dasgupta and Samaresh Nandy, for the Respondent

Judgement

Susanta Chatterji, J.

The present writ petition has been filed by Life Insurance Corporation of India against the Commissioner of Asansol Municipality and State of West Bengal praying inter alia for an appropriate Writ of Mandamus commanding the respondents to forbear from giving any effect or further effect or to take steps pursuant to the purported notices u/s 155(4) of the Bengal Municipal Act, 1932 in any manner whatsoever and on the basis of the order of the Review Committee relating to assessment made by the Assessor and the Commissioner of Asansol Municipality respectively and/ or to realize any rates and/or taxes on the basis thereof from the petitioner Corporation. It is stated in detail that the petitioner-Corporation is the owner among others of the 3 (three) properties in the town of Asansol in the District of Burdwan known as "holding No. 195/147, Kumarpur" earlier known as holding No. 123 and holding No. 147/1, Kumarpur since re-numbered as holding No. 196/147/1, Kumarpur and holding No. 324 R. N. Road, Asansol since re-numbered as holding No. 324/382, R. N. Road, Asansol". Time to time additions and alterations

were made and on new constructions were raised over the said holding and the Commissioner of Asansol Municipality made valuation for the purpose of assessment previously. The petitioner obtained Civil Rule No. 3129 (W) of 1974 against the assessment of the annual valuation. Against the disposal of the said Rule, an appeal was preferred being F.M.A. No. 592 of 1979. On 1st April, 1978, the respondent No. 1 on the basis of a fresh assessment raised the annual value of the holding No. 195/147 from Rs. 4,03,300/- to Rs. 4,83,960/-. The petitioner preferred an application for review u/s 148 of the Bengal Municipal Act against the said enhancement on 27th April, 1978 which has since been disposed in purporting to exercise of the powers u/s 148 of Bengal Municipal Act. The petitioner has constructed a staff quarter in the said holding and the respondent No. 1 Municipality enhanced the annual valuation of the said holding again and determined the amount of Rs. 8,33,284/- as the annual valuation of the said holding with effect from 1.7.78. According to the petitioner, such assessment and the determination of the annual valuation were absolutely whimsical and wrongful. On or about 14th September, 1982, the respondent No. 1 directed the petitioner u/s 134 of the Bengal Municipal Act to file a return of the annual value of the said holding and according to the petitioner, the Assessor has no jurisdiction and/or authority to issue the said notice to file any return. Without prejudice however, the petitioner filed its return of valuation on 12th November, 1982. It is stated that except the staff quarter the other 3 (three) buildings are self-occupied by the petitioner Corporation and the Divisional Office is located. The present valuation of the 3 (three) buildings on the basis of cost of construction has been duly added and on the basis, whereof returns have been filed with Revenue Authorities being Rs. 4,48,943.21P., Rs. 13,88,867.60P., and Rs. 14,93,809.36P., respectively totaling in all Rs. 33,31,620.17P. It is alleged that there is payment of licence fee paid by the occupiers and the same is realized to the tune of Rs. 2,29,000/- annually. In this circumstances, the annual value of the said holding has to be determined u/s 128 of the Bengal Municipal Act on the basis of gross rental value. In respect of second holding at No. 196/147/1, Kumarpur Road, there is Branch Office-cum-Investment Office and the building was constructed on July, 1981. The respondent No. 1 assessed the annual value of the said at Rs. 1,25,000/- alleging amongst others that the respondent No. 1 entitled to charge the maximum rate of 7 1/2 per cent on the value of the said building for the purpose of annual valuation and assessed at Rs. 14,375/- as a total annual rental valuation. They preferred an application for review on 8th April, 1982. Pending hearing of the review petition, there is a further assessment in April 1983 and the respondent No. 1 revised the annual valuation of the said holding from Rs. 1,25,000/- to Rs. 1,75,725/- and the fresh objection has been filed. Regarding the third holding, the annual valuation has been raised double and the steps taken by the Municipal Authority are alleged to be irregular and illegal. The Review Committee finally heard and disposed of the review petitions against the impugned assessments, the decision of the revenue authorities has since been challenged. Elaborating all these points, the writ petitioner has to come to this Court on the

ground that the respondent Asansol Municipality proceeded illegally in determining annual value of the staff quarter on the basis of construction while the staff quarter is not self-occupied and it is admittedly occupied by the employees of the petitioner who are paying licence fee. It is obligatory on the part of the Municipality to proceed u/s 158(1) of the Bengal Municipal Act in determining annual value of the holding No. 1. The respondent municipality and the Review Committee went beyond the jurisdiction in fixing the cost of construction and the acts done and/or caused to have been done in determining annual valuation and assessing aforesaid 3 (three) buildings are wholly unwarranted and uncalled for. There is arbitrary, excessive and mala fide attempt to realize more taxes and the steps are contrary to and inconsistent with the provisions of law. The decision of the Review Committee appears to be unjust and unfound, as alleged.

2. The writ petition is seriously contested by the Municipal Authority. There are affidavits placed on record that all these steps were taken according to the provisions of the Bengal Municipal Act to determine the annual valuation of the buildings in question and the assessments have been made strictly according to law. At all relevant point of time, proper opportunities were given and the order were made by considering the objections and/or review petition. The present writ petition appears to be thoroughly misconceived.

3. Upon perusal of the materials on record and patiently hearing the writ petitioner, it appears that there is serious objection by the L.I.C. Authorities that L.I.C. Buildings are not liable to be assessed for payment of municipal taxes. Besides, the steps taken by the Municipal Authority are contrary to law.

4. Mr. Sudish Dasgupta learned Advocate has drawn the attention of the Court to various provisions of L.I.C. Act, 1956, and in particular he has drawn the attention of the Court to Sections 3(2) and 6(2)(c) as to how L.I.C. may acquire and dispose property. There is reference of Section 13(1)(a) and Section 19 for formation of Committee for function. There is reference of Sections 24 to 29 and also Section 49 referring to make regulation. The reference has been made to [Corporation of Calcutta Vs. On the death of Sm. Rajlakshmi Debi her heirs Nani Gopal Mukhopadhyay and Another](#), and [Western Coalfields Limited Vs. Special Area Development Authority, Korba and Another](#), particularly Head Note (c).

5. Considering the submissions of both sides and looking at the materials on record in depth, this Court is of the clear view that the L.I.C, cannot escape of the municipal assessment and to pay municipal taxes in accordance with law. This Court has scrutinized as to the steps taken by the Municipal Authorities to determine the annual valuation of the holding and to demand payment of taxes. This Court does not find that the steps are irregular and illegal. Every opportunity has been given to the L.I.C. Authorities to place on record their objections and the objections have been considered in the proper perspective. This Court does not find any merit in the objection taken before this Court as to various proceedings disclosed by the

Municipal Authorities in the manner as provided under law. The grievances of the petitioner does not appear to be not genuine and bona fide.

6. For the foregoing reasons, this Court does not find any merit in the writ petition and the same is rejected without any order as to costs. All interim orders are vacated.