



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

WRIT PETITION NO. 40178 OF 2018 (LB-BMP)

BETWEEN:

CHALET HOTELS LTD.,
HAVING ITS REGISTERED OFFICE AT
RAHEJA TOWERS, PLOT C,
BLOCK G, BANDRA KURLA COMPLEX,
BANDRA (EAST), MUMBAI-400050
BRANCH OFFICE AT 75 EPIP AREA,
NEXT TO SATYA SAI HOSPITAL,
WHITE FIELD, BENGALURU-560066.
REPRESENTED BY ITS AUTHORISED SIGNATORY,
MR.VISHWAS SHETTY,
AGED ABOUT 59 YEARS,
S/O LATE SOMAYA MANJAPPA SHETTY

...PETITIONER

(BY SRI. BANNIKATTI DEEPAK, ADVOCATE FOR
SMT. LATHA S SHETTY, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF URBAN DEVELOPMENT,
VIDHANA SOUDHA, BENGALURU-560001.
2. THE COMMISSIONER
BRUHAT BANGALORE MAHANAGARA PALIKE,
N.R.SQUARE, BENGALURU-560002.
3. THE ASSISTANT REVENUE OFFICER
BRUHAT BANGALORE MAHANAGARA PALIKE,
N.R.SQUARE, BENGALURU-560002.

...RESPONDENTS

(BY SRI. B. BOPANNA, ADDITIONAL GOVERNMENT ADVOCATE FOR
RESPONDENT NO.1;

Digitally
signed by
HEMALATHA
J
Location:
HIGH COURT
OF
KARNATAKA



SRI. S.N.PRASHANTH CHANDRA, ADVOCATE FOR RESPONDENT NOS.2 AND 3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO STRIKE DOWN SECTION 108(A) OF THE KMC ACT AS BEING ULTRA VIRES THE CONSTITUTION AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 10.03.2026 AND COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

CAV ORDER

The petitioner has sought for a writ in the nature of certiorari to strike down Section 108-A of the Karnataka Municipal Corporations Act, 1976 (henceforth referred to as 'KMC Act, 1976') as being ultra vires the Constitution of India and to issue a writ in the nature of certiorari to quash the notification bearing No.Commr./BBMP-DC (Rev)/5675/15-16, Bangalore, dated 09.03.2016 issued by the respondent No.2 and published in the Karnataka Gazette (Extraordinary) in its Issue No.384 Part III, dated 16.03.2016 in so far as it relates to fixing the rate of property tax payable in relation to the properties falling under Category VIII.



2. (i) Petitioner claims that it is the owner of a piece of land in plots bearing Nos.75, 76, 85 to 87, CA plot and plot No.88 part of EPIP Industrial Area situate in Sy.Nos.97, 98, 149, 150 and 151 of Hoodi Village, K.R Puram Hobli, totally measuring 39,512 square metres, which is used for a mixed development project consisting of office block with total built-up area of 1,08,912 sq. ft., retail block with total built-up area of 3,20,690 sq. ft., hotel block with total built-up area of 4,38,692 sq. ft. and car park area of 2,10,478 sq. ft., which is equal to 10,78,772 sq. ft.

(ii) Petitioner contends that prior to March 2000, the property taxes were collected based on the demand made by the respondent No.3 and if any person was aggrieved, the same could be challenged before the respondent No.2. Subsequently, on 13.03.2000, new provisions were introduced for payment of property tax on the basis of self-assessment under which instead of the respondent No.2 raising a demand, the citizens were given option to assess the property tax payable by them after following the due process of such assessment. It contends that with effect from 13.01.2009, the Karnataka Municipal Corporations (Amendment) Act, 2009



came into force by which Section 108-A which provided for a special manner in which the property tax shall be levied with respect to all buildings situate within the Bruhat Bengaluru Mahanagara Palike (BBMP) limits was introduced. This amendment replaced the earlier ordinance namely, the Karnataka Municipal Corporations (Amendment) Ordinance, 2008. As per Section 108-A, respondent No.2 was required to pass a resolution fixing the percentage of property tax to be levied on the taxable annual value of the building. This taxable annual value is to be arrived at by multiplying the unit area value into the total built-up area of the building, vacant land or both for ten months minus depreciation. The explanation to sub-section (2) provides that the unit area value means the average rate of expected returns from the property per square feet and that the respondent No.2 must publish in the Official Gazette the various unit area values which ought to be arrived at on the basis of the average annual market rate determined through mass appraisal method, real estate market information etc., The explanation also provided for different rates to be provided by classifying different areas or streets into different zones and that in case of parking areas, the respondent No.2



may fix a lumpsum amount as annual tax irrespective of zonal classification. Sub-section (16) provides that the property tax assessed and levied shall be liable for a revision once in three years by enhancing by 15%.

(iii) The petitioner contends that the respondent No.1 has framed the Bruhat Bengaluru Mahanagara Palike Property Tax Rules, 2009 and has notified the same on 31.01.2009. Rule 2(vi) defines "built up area" as the total area covered by the building including the basement area. Rule 2(x) defines "excess vacant land" as the area of vacant land appurtenant to the building in excess of three times the plinth area of the building by excluding the plinth area. Rule 3 provides for classification of properties into different zones. It provides that respondent No.2 shall as far as possible group streets, areas and localities of similar values together. Rule 3(v) provides that respondent No.2 may classify specific classes of properties without reference to the zonal classification. Rule 5 provides that the taxable annual value of a property shall be determined by multiplying the unit area value with the built up area and excess vacant land for ten months less depreciation. Rule 7 provides that assessment of tax of excess vacant land shall be



calculated on the land that is in excess of three times of interior of the building.

(iv) Petitioner claims that pursuant to Section 108-A, respondent No.2 notified on 31.01.2009 the unit area values, whereunder the area under the jurisdiction of respondent No.3 has been classified into six zones with a specified unit area value in respect of each of those zones. The unit area values were published by the respondent No.2 in the Official Gazette on 02.02.2009. As per Category X, the notification is general and there is no zonal classification. Pursuant to the said notification, the respondent No.2 has published a property tax self-assessment scheme handbook for the block period 2008-09 to 2010-11. The scheme also notified unit area values for certain kinds of properties irrespective of the zone in which that property would fall. For example, any non-residential property of 5,000 sq. ft. or more irrespective of its location whether in zone - A or zone - F, if provided with central air conditioning facility will be deemed to have unit area value of Rs.20/-, which was utterly without rationale leading to 150% increase in tax than what was paid earlier.



(v) It is contended that in the year 2012, only retail block along with car park area was under operation. As such, the respondent authorities on 27.07.2012 issued the demand notice demanding property tax under Section 108-A(3) and (11) of the KMC Act, 1976 directing the petitioner to pay tax as per the notification dated 31.01.2009. The petitioner being aggrieved by the notification dated 31.01.2009 filed W.P.No.51552/2012 before this Court and also sought for a declaration that collection of property tax under Category VIII issued by respondent No.2 with regard to unit area value for centrally air conditioned units is highly arbitrary, illegal and unconstitutional. An interim order was granted in the said writ petition subject to payment of 50% of the demand made in terms of the notification dated 31.01.2009. During the pendency of the above writ petition, the petitioner's hotel block with total built up area of 3,94,902 sq. ft. and car park area with total area of 2,10,478 sq. ft. began operation. The respondent No.2 issued a notification bearing No.UA(KAN)P.R.208:2012-13, Bangalore, dated 21.12.2012 and published in the Official Gazette dated 02.01.2013 fixing the rate of property tax payable in relation to the properties



falling under Category VII and VIII. Under the said notification, Categories VII and VIII were only modified whereas Category X remained unchanged. In view of the subsequent notification dated 21.12.2012, W.P.No.51552/2013 was disposed of in terms of an order dated 26.11.2013.

(vi) The petitioner contends that in terms of the notification dated 21.12.2012, the Categories VII and VIII were modified and Category X was not modified and the increase in the rate was operative with retrospective effect i.e., from 01.04.2008. The petitioner being aggrieved by the notification dated 21.12.2012 filed W.P.No.19906/2014 challenging Section 108-A of the KMC Act, 1976, the Rules, 2009, the notifications dated 31.01.2009, 21.12.2012 and Rules 3(v) and 4 of the Rules, 2009. An interim order was granted by this Court in the said writ petition subject to payment of property tax as was paid at such rates as was paid in the year 2013-14.

(vii) Petitioner contends that on 01.04.2017, it expanded its hotel block with additional 67 rooms with an additional built up area of 43,790 sq. ft. Petitioner has paid the property tax with respect to the built up area of 3,94,902 sq. ft. in terms of



the order dated 30.04.2014 at Rs.12.50 per sq. ft. with respect to 67 rooms with additional built up area of 43,790 sq. ft. The petitioner has paid property tax at the rate of Rs.25/- as per the impugned notification. The petitioner claims that it tried to make an online payment for the year 2018-19. However, the challan for payment could not be uploaded and therefore, the petitioner addressed a communication dated 18.05.2018 requesting the respondent authorities to generate the challan. Thereafter, on 30.05.2018, the petitioner submitted demand draft of Rs.1,35,80,016/- towards property tax for the said property and requested the respondent authorities to accept the tax payment. Thereafter, on 04.06.2018, the petitioner once again requested the respondents to issue receipt of having received the tax to avoid penalty and for audit purposes.

(viii) It is contended that during the pendency of W.P.No.19960/2014, the respondent No.2 has issued a notification bearing No.Commr./BBMP-DC(Rev)/5675/15-16, Bangalore, dated 09.03.2016 and published in the Karnataka Gazette dated 16.03.2016 by reclassifying the categories of properties and thereby fixing the rate of property tax payable in relation to the properties falling under Categories VI to VIII.



The petitioner's mixed development under the impugned notification has been reclassified and the retail block is classified under Category VI and the tax has been increased from the existing Rs.8/- per sq. ft. to Rs.10/- per sq. ft. Further, the office block has been reclassified from Category VII to Category VI and the tax has been increased from Rs.8/- to Rs.10/- per sq. ft. The hotel block which was classified under Category X has been reclassified and placed under Category VIII under the impugned notification and the tax has been increased from Rs.20/- to Rs.25/- per sq. ft. Furthermore, the notification dated 09.03.2016 is published in the Gazette increasing the rate of property tax at Rs.25/- per sq. ft. with respect to Category VIII retrospectively from 2015.

(ix) The petitioner contends that the respondent No.2 could not have unilaterally increased the rates of property tax without complying the other mandatory requirements contemplated under the KMC Act, 1976. Therefore, the said notification dated 09.03.2016 is illegal, arbitrary, irrational and unsustainable in law. It further contends that in terms of the notification dated 31.01.2009, the retail and office blocks were classified under Category VII and all Star hotels were



categorized under Category X and tax was uniformly fixed at the rate of Rs.20/-. Thereafter, the respondent authorities modified the notification dated 31.01.2009 and issued the notification dated 21.12.2012 as per which the retail and office blocks were classified under Category VII and bifurcated tax in cases of zones as per the petitioners properties at Zone - E and tax was decreased to Rs.8/- per sq. ft. and Category X was classified to Category VIII and the rate of tax at Rs.20/- remained unchanged. Under the impugned notification dated 09.03.2016, the respondent authorities, irrespective of the zones, the property tax pertained to Category VIII has been exorbitantly taxed at Rs.25/- per sq. ft. It is therefore, contended that the rate of tax is irrational. Besides this, it is contended that the impugned notification dated 09.03.2016 is passed by the respondent authority without complying the mandate of Section 102-B of the KMC Act, 1976. Under the circumstances, the notification dated 09.03.2016 is unsustainable.

3. Learned counsel for the petitioner submitted that in terms of the notification dated 31.01.2009, all non-residential buildings provided with centrally air conditioning were treated



as one Class and thereafter, the State Government realized that it is not feasible to treat all buildings to one Class and therefore, issued the notification dated 21.12.2012 in terms of which it classified non-residential buildings into various zones. He submitted that similarly Five-star hotels are located in various zones of the city of Bengaluru. Some of the Five-star hotels are located in the central business restrict, while others are located far away. He submits that the tariffs in as much as Five-star hotels vary from area to area. Likewise, the cost of amenities and facilities also vary. He therefore, contends that the respondents must have classified Five-star hotels into the zones and different rate of tax ought to have been imposed. He submits that not doing so would be treating non-class to class and thereby, violates the Article 14 of the Constitution of India. He also submits that the rate of tax imposed on Five-star hotels at Rs.25/- per sq. ft. is exorbitant and the notification dated 09.03.2016 is issued without applying mandate of Section 102 of the KMC Act, 1976. Thus, he prays that the impugned notification be set at nought and a direction be issued to reconsider the rates of tax by classifying Five-star hotels into different zones.



4. Per contra, learned counsel for respondent Nos.2 and 3 submits that Five-star rating is given by the State Government or the Central Government based on the facilities offered in the restaurants. He contends that the rating is given based on the facilities and amenities offered in the hotels. Hence, he contends that treating Five-star hotels as a Class is just and proper and there is no unreasonable classification. Besides this, he contends that the petitioner has not placed on record the material to justify that the tariffs charged in these Five star hotels vary from location to location and no material is placed on record to show that the cost of amenities and facilities in these hotels differ from hotel to hotel based on location. He therefore, contends that the contention of the petitioner that all hotels cannot be classified as one category, is without any basis. He also contends that these hotels lie in strategic location and caters to a specific community and hence, they cannot contend that they cannot be classed together. He relied upon the judgment of the Hon'ble Apex Court in the case of ***Kerala Hotel and Restaurant Association and others vs. State of Kerala and others [(1990) 2 SCC 502]*** and submitted that the issue regarding



classification of Five-star hotels for the purpose of taxation is no longer *res integra*. Thus, he contends that the contention of the learned counsel for the petitioner is without any basis. As regards claim that the rate of tax is exorbitant, he submits that the petitioner has not challenged the notification dated 21.12.2012 by which the tax at Rs.20/- per sq. ft. was imposed. He invited the attention of the Court to sub-section (16) of Section 108-A of KMC Act, 1976 and contends that the rate of tax is liable to be enhanced at the rate of 15%. Thus, he contends that the tax imposed is neither exorbitant nor unjustified. As regards third contention that the rates are increased without consultation of the board constituted under Section 102-B of the KMC Act, 1976, he contends that the Mahanagara Palike has passed a resolution to fix the property tax at Rs.25/- per sq. ft. in so far as Five-star hotels are concerned and that provision is made in sub-section (16) of Section 108-A of the KMC Act. Thus, he contends that the authority has the power to levy and demand property tax. He also contends that the tax demanded by the impugned notification is neither exorbitant nor unreasonable and therefore, prays that the petition be dismissed.



5. Learned Additional Government Advocate for respondent No.1 adopted the submissions of the learned counsel for respondent Nos.2 and 3.

6. Though the petitioner has filed a labyrinthine writ petition, the case of the petitioner simply put is that it had developed a centrally air conditioned non-residential building used for retail sales along with car park. As per the notification dated 31.01.2009, the respondents had fixed property tax irrespective of location at the rate of Rs.20/- per sq. ft. in respect of properties that were more than 5,000 sq. ft. Thereafter, a notification dated 21.12.2012 was issued whereby all buildings provided with centrally air conditioned were categorized on the basis of zones and the petitioner's property lay within zone - E, which was exigible to property tax at the rate of Rs.8/- per sq. ft. as against Rs.20/- under the notification dated 31.01.2009. However, in respect of Star hotels, the rate of property tax continued to be Rs.20/- per sq. ft. The respondents then issued a notification dated 09.03.2016 determining the unit area value of properties for the block period 2016-19 and classification of area/street within



the jurisdiction of BBMP into six zones. As far as retail blocks, car park of the petitioner, it was categorized under Category VII, Zone - E, while the Five-star hotel was categorized in Category VIII with an uniform slab at the rate of Rs.25/- per sq. ft.

7. The petitioner challenged this demand on three grounds namely,

- (a) that all Five-star hotels are categorized in one irrespective of their location, which amounts to treating unequals as equals.
- (b) that the rate of property tax is excessive.
- (c) that the notification dated 09.03.2016 is issued without following Section 102-B of the KMC Act, 1976.

8. In order to consider the first two contentions, it is first necessary to refer to Section 108-A of the KMC Act, 1976, which reads as follows:

"108-A. Levy and calculation of property tax in respect of Bruhath Bangalore Mahanagara Palike.-



(1) Notwithstanding anything contrary contained in this Act, subject to such exemptions provided under this Act and such rules as may be prescribed, the property tax of all buildings or vacant lands or both situated within the city of Bruhath Bangalore Mahanagara Palike area shall be levied every year in the following manner.

(2) The property tax shall be levied by the Bruhath Bangalore Mahanagara Palike by resolution passed as specified in Section 106 at such percentage not being less than 20 per cent and not more than 25 per cent of the taxable annual value of a building, vacant land or both. The taxable annual value of a building, vacant land or both shall be calculated by multiplying the corresponding "unit area value" with the total built-up area of a building, vacant land or both for ten months, minus depreciation at such rate, as may be prescribed, depending on the age of a building.

Explanation.- For the purpose of this section, "Unit Area Value" means an average rate of expected returns from the property per sq.ft., per month determined by the Commissioner, Bruhath Bangalore Mahanagara Palike on the basis of the average market rate determined through mass appraisal method or real estate market information or any other reliable source or combination of these sources that he may considers it as sufficient and reasonable having regard to the location, type of construction of the building, nature of use to which the vacant land or building is put, area of the vacant land, built-up area of the building, age of the



building, parking area of vehicles in non-residential building where it is charged and such other criteria as may be prescribed. Different rates may be determined for different area or street by classifying into zones, different nature of use to which the vacant land or building is put and for different class of buildings and vacant lands:

Provided that no such "unit area value" shall come into force unless it is previously published in the official Gazette for the information of the persons likely to be affected and an opportunity is provided to make representation or suggestions, if any, in this regard:

Provided further that the land appurtenant to a building to the extent not exceeding thrice the area occupied by such building shall be exempted from the property tax:

Provided also that subject to such condition and in such circumstances as may be notified, the Commissioner, Bruhath Bangalore Mahanagara Palike, may, in lieu of the tax under sub-section (2), fix any lumpsum amount as annual tax, irrespective of zonal classification, in respect of,-

- (a) a built-up area having less than 300 sq.ft., in a slum area declared as such by the Karnataka Slum Clearance Board or the Commissioner, Bruhath Bangalore Mahanagara Palike; and
- (b) an area used as parking area in a non-residential building and being charged for its use by the owner or the occupier.



(c) any other class of building or structure as he deems fit.

(3) The Bruhath Bangalore Mahanagara Palike may levy and collect the property tax from every building, vacant land or both including a building constructed in violation of the provisions of building byelaw or in an unauthorized layout or in a revenue land or from a building occupied without issuance of occupancy or completion certificate except the building constructed illegally in Government land, land belonging to any local body, any statutory body or an organization owned or controlled by the Government. The property tax collected from such building shall be maintained in a separate register:

Provided that levy and collection of property tax under this sub-section from such building does not confer any right to regularise violation made, or title, ownership or legal status to such building. Such buildings shall always be liable for any action for violation of law in accordance with the provisions of this Act or any other law.

Provided further that, whoever constructs or reconstructs any building or any part of the building without obtaining permission under this Act or in contravention of any of the condition specified in such permission granted under this Act or any rule or any bye-law made thereunder, shall be liable to pay every year a penalty of an additional amount in respect of such floor area or deviation constructed in excess of the permitted



area or in violation of the permission granted equal to the property tax leviable on such floor area or deviation of the building levied under sub-section (3), so long as it remains as unlawful construction and without prejudice to any proceedings which may be instituted against him in respect of such unlawful construction:

(4) The property tax payable shall be reduced by fifty percent in respect of a self occupied building used for residential purpose and such class of self occupied non-residential building as may be notified by the State Government on the recommendation of the Corporation.

(5) The provisions contained in Sections 107, 110, 111, 112, sub-sections (5), (6) and (7) of Section 112A, and Sections 112B, 112D and 113 to the extent they are not inconsistent to the provisions of this section shall *mutatis mutandis* apply to the Bruhath Bangalore Mahanagara Palike:

Provided that the State Government may prescribe separate procedure, form or register in respect of property assessed by the Bruhath Bangalore Mahanagara Palike. A different register may be prescribed for different class of property assessed for tax.

(6) The person primarily liable to pay the property tax, shall pay the tax in two equal instalments. The first being before 30th May and second by 29th November of each financial year. However, the owner or occupier or person primarily liable to pay property tax may choose to pay in one instalment:



Provided that for the year 2008-09, the first instalment shall be paid within sixty days from the date of commencement of the Karnataka Municipal Corporations (Amendment) Act, 2009 and the second instalment shall be paid within thirty days thereafter:

Provided further that if the owner or occupier who is liable to pay property tax files return and also pays property tax for the whole year, within one month from the date of commencement of each year or within one month or within one month from the date of commencement of the Karnataka Municipal Corporations (Amendment) Act, 2009 for the year 2008-09, he shall be allowed a rebate of five per cent on the tax payable by him:

Provided also that the State Government may on the recommendation of the Corporation by notification extend the time limit for payment of property tax without penalty and for the benefit of 5% rebate in respect of the financial year 2008-09 and 2009-2010.

Provided also that subject to random scrutiny as may be prescribed, the tax return filed for the first time during 2008-09 shall form the base for payment of tax applicable during each block year.

(7) Before any owner or occupier submits any return under sub-section (8), he shall pay in advance half-yearly tax calculated or the full amount of the property tax payable by him for the year on the basis of such return declared by him as being true and complete.



(8) Notwithstanding anything contained in sub-section (1) of section 112A, the State Government may prescribe the form and the manner in which every owner or occupier who is liable to pay the property tax under this Act shall submit a return every year to the Commissioner, Bruhath Bangalore Mahanagara Palike or to the officer or agency authorized by him in this behalf.

(9) In order to facilitate filing of return by an owner or occupier of any building or vacant land or both and assessment of property tax under this section, the Commissioner shall from time to time issue guidelines for determining the unit area value and property tax payable thereon.

(10) Every return filed by a owner or occupier shall be deemed to have been assessed to tax except in cases where the Commissioner or authorised officer may take-up or authorise subordinate officers the cases for random scrutiny of the returns filed in the manner prescribed.

Provided that Commissioner may *suo moto* or otherwise has reason to believe that there is an evasion of tax by the owner or occupier, he may cause inspection of such building and assess the tax.

(11) For the purpose of random scrutiny of the return filed or in cases where returns are not filed as required under sub-section (8) in respect of any buildings or lands or both, the Commissioner or any person authorized by him in this behalf may enter, inspect, survey or measure any land or building after giving notice



to the owner or occupier and the owner or occupier shall be bound to furnish necessary information required and based on such inspection and information collected, he shall assess the property tax subject to sub-section (5) and send a copy of the order of assessment to the owner or occupier concerned. Such entry into and upon any building or vacant land shall be made between sunrise and sunset.

(12) If the occupier of the property, refuses to allow the authorized officer to enter to inspect the premises, the officer after giving reasonable opportunity shall record the refusal and shall proceed to assess the property to the best of his judgement:

Provided that in the case of buildings used as human dwelling due regard shall be paid to the social and religious customs of the occupiers and no apartment in the actual occupancy of a woman shall be entered until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

(13) Upon random scrutiny, if the authorized officer has reasons to believe that any return furnished, which is deemed as assessed, is incorrect or has been underassessed resulting in evasion of property tax,-

- (a) may, on the basis of information available on record and after physical inspection proceed to re-assess the property, in the manner provided under this section;



- (b) if the tax-reassessed is more than 5 percent than the tax remitted alongwith the returns, the evaded tax shall be payable together with a penalty not less than twice the tax so evaded payable alongwith interest for the difference in tax paid and payable calculated at 24 percent per annum;
- (c) if upon inspection and re-assessment as made under this section by the Commissioner or the authorized officer, shall issue a notice of re-assessment to the tax payer demanding that the tax shall be paid within thirty days of the service of the notice and after giving the tax payer the opportunity of show cause in writing;
- (d) the owner or occupier may either accept the property tax assessed and the penalty levied or send objections to the Commissioner or the authorized officer within a period of thirty days from the date of receipt of a copy of the notice under this sub-section;
- (e) the Commissioner or the authorized officer shall consider the objections and pass such orders either confirming or revising such assessment within a period of sixty days from the date of filing objections and a copy of the order shall be sent to the owner or occupier concerned.

(14) An assessment or re-assessment under this section shall not be made after the following time limits,-



- (i) three years after filing the tax return under this section;
- (ii) three years after the evidence of facts, sufficient in the opinion of the Commissioner or the authorized officer to justify making of the re-assessment, comes to its knowledge, whichever is later.

(15) In computing the period of limitation specified for assessment or re-assessment, as the case may be under this Act, the period taken for disposal of any appeal against an assessment or other proceedings by the appellate authority, a tribunal or competent court shall not be taken into account for assessment or re-assessment as the case may be.

(16) Subject to sub-section (2), the property tax assessed and levied under this section shall be liable for revision once in three years by enhancing 15 percent commencing from the financial year 2008-09:

Provided that the Municipal Corporation may enhance such property tax upto 30 percent once in three years and different rates of enhancement may be made to different areas and different classes of buildings and lands:

Provided further that the non-assessment of property tax under this section during the block period of three years shall not be applicable to a building in respect of which there is any addition, change of use, alteration or variation to it. The owner or occupier shall report such



changes within six months from the date of completion or occupation whichever is earlier alongwith the revised return and tax:

Provided also that nothing contained in this section shall be deemed to affect the power of State Government to direct an earlier revision of property tax.

(17) The Commissioner shall have power to clarify any doubt as to classification of zones, unit area value and class of property. The decision of the Commissioner in this regard shall be final."

9. A perusal of the above would show that the respondents have the authority to demand tax based on the location, type of construction of building, nature of use to which the vacant land or building is put. If fixing the property tax of properties irrespective of their location passes the classic twin test of reasonable classification and the object sought to be achieved, then the vires of Section 108-A cannot be attacked. As stated by this Court in W.P.No.6466/2015, Five-star hotels are rated by the State Government and the Central Government depending upon the luxury of accommodation, the quality of amenities and services provided. These Five-star hotels are established at strategic locations to cater to elite class of people, who can afford to stay in such Five-star



accommodation and enjoy the facilities. There is nothing on record to show that the rates charged for accommodation by these Five-star hotels vary significantly from one zone to another. Similarly, it is not known whether the rates for providing services and amenities differ from one hotel to the other. Thus, as held in W.P.No.6466/2015, treating all Five-star hotels for the purpose of applying uniform rate of tax is not an unreasonable classification but is a reasonable classification and the object sought to be achieved is to collect a uniform rate from those who can afford it. This apart, the petitioner has not challenged the notification dated 21.12.2012, which fixed the property tax of Star hotels at the rate of Rs.20/- per sq. ft. Sub-section (16) of Section 108-A of the KMC Act, 1976, authorizes the respondents to escalate the tax at the rate of 15% once every three years commencing from the financial year 2008-09. There is no challenge to sub-section (16) of Section 108-A. The rate of property tax as per the notification dated 31.01.2009 was Rs.20/- per sq. ft. and the same continued to be so as per the notification dated 21.12.2012. It is only by notification dated 09.03.2016 that the property tax



was increased from Rs.20/- to Rs.25/- per sq. ft. Therefore, this cannot be treated to be excessive or unreasonable.

10. The last contention that these revisions have taken place without consultation of the board constituted under Section 102-B of KMC Act, 1976, is also of no consequence, as there is nothing to show that the board was constituted by the time the impugned notification was issued. Assuming that it was constituted, in view of sub-section (16) of Section 108-A of the KMC Act, 1976, the revision is only factoring the escalation as provided in law.

11. In that view of the matter, this petition lacks merit and is ***dismissed***.

Sd/-
(R. NATARAJ)
JUDGE