



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. 6466 OF 2015 (LB-BMP)

BETWEEN:

SRI. M.R. KODANDARAM
AGED ABOUT 50 YEARS,
S/O LATE M.S. RAMAIAH,
RESIDING AT NO.115,
GOKULA EXTENSION,
HMT ROAD, (NEAR BEL CIRCLE)
BANGALORE-560 054.

...PETITIONER

(BY SRI. PRADEEP S. SAWKAR, ADVOCATE)

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF URBAN DEVELOPMENT,
VIKASA SOUDHA,
BANGALORE-560 001.
REPRESENTED BY ITS PRINCIPAL SECRETARY
2. THE COMMISSIONER
BRUHAT BANGALORE MAHANAGARA PALIKE,
NEAR HUDSON CIRCLE,
BANGALORE-560 002.
3. ASSISTANT REVENUE OFFICER
YESHWANTHPUR SUB ZONE,
YESHWANTHPUR,
BANGALORE-560 022.

...RESPONDENTS

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

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





THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE CIRCULAR BEARING NO.UA(COM)PR:208:2012-13 DATED 07.03.2013 [ANNEXURE-A] ISSUED BY THE 2ND RESPONDENT AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON 09.02.2026 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 quash the Circular bearing No.ಉಆ (ಕಂ) ಪಿ.ಆರ್:208:2012-13 dated 07.03.2013 issued by the respondent No.2 and to quash the notice bearing No.ARO YPR-GLPR-287/14-15 dated 08.08.2014 issued by the respondent No.3 and to hold that Rule 3(v) of the Bruhat Bangalore Mahanagara Palike Property Tax Rules, 2009 (henceforth referred to as 'Rules, 2009') is ultra vires the Karnataka Municipal Corporations Act, 1976 (henceforth referred to as 'KMC Act, 1976') and unconstitutional and accordingly quash the said Rule and to hold that Entry 14A of Form V of the Rules, 2009 is ultra vires the KMC Act, 1976 and unconstitutional and accordingly to quash the said entry.



2. (i) The petitioner claims that he is the owner of a property bearing No.115, PID No.02-226-115, Gokula Extension, HMT Road, Bengaluru - 560 054, which housed a hotel and spa in the name and style "*Movenpick Hotel and Spa*", which received a Five-star certification by the Government of Karnataka during January 2013. He contends that the respondent No.2 issued a Circular dated 07.03.2013 purportedly under Section 108-A(16) of the KMC Act, 1976, determining the rates for various properties under various categories for fixation of the unit area value for arriving at the taxable annual value of properties falling within such categories. Petitioner claims that from a reading of the properties described and their unit area value subscribed under Categories IX and X, the Circular does not make any distinction and also take into account the zone or location of the properties in question. Petitioner contends that Category IX deals with restaurants and hotels other than those mentioned in Category X and fixes the unit area value based on the daily room rents charged irrespective of the zone in which the hotel or restaurant is located. Similarly, Category X determines unit area value at the rate of Rs.20/- per sq. ft. on hotels which



have been notified as "Star Hotels" by the Central Government or the State Government. Petitioner claims that there is no justifiable distinction made in Category X for various classes of Star Hotels such as One-star, Two-star, Three-star, Four-star or Five-star hotels and a uniform unit area value has been determined and that too without taking into consideration the zone in which such hotel may be located.

(ii) Petitioner contends that based on such a Circular, the respondent No.3 issued a notice to the petitioner calling upon him to pay the revised rate of property tax at Rs.20/- per sq. ft. in comparison to Rs.14/- and Rs.7/- per sq. ft. that was levied earlier as per the Order dated 03.05.2012. The petitioner was then called upon to pay a sum of Rs.1,57,01,523/- vide a notice dated 08.08.2014. The respondent No.3 has indicated that the building measured 2,41,925.48 sq. ft. and has a parking area of 99,898.63 sq. ft. and accordingly had concluded that the taxable annual value of the property is Rs.5,06,50,075/- with effect from 01.10.2012. The petitioner claims that the basis of such a calculation was not furnished to him. He contends that Rule 14-A of Part III in Form V to the Rules, 2009 with effect from 13.01.2009 as amended by the



Bruhat Bangalore Mahanagara Palike Property Tax (Amendment) Rules, 2009 which came into force on 25.06.2009. It is contended that the manner of assessment mentioned in the Rules, as stated above, are contrary to the provisions of Section 108-A of the KMC Act, 1976. The petitioner wrote a detailed letter to the respondent No.3 requesting him to reconsider the matter and requested the authorities to consider the location/zone where the property is situated before determining the unit area value. The petitioner also relied upon an order passed by this Court in the case of ***Seetha Kalyana Mandiram vs State of Karnataka and others [2014 (1) Kar.L.J 496]***, where this Court had quashed Rule 3(v) of the Rules, 2009 in so far as it related to Categories IX and XIII of Table 2 of Annexure - II on the ground that the respondents had not made out any intelligible differentiation while fixing the unit area value for the properties in those categories only based on their location. The petitioner claims that the property of the petitioner lies within Category X which also suffers from the same lacuna.

(iii) Petitioner contends in the aforesaid judgment, this Court had held that while framing rules in regard to levy of



property tax, the location, type of construction, nature of use, age of building, parking areas, class of buildings etc. had to be borne in mind as mandated by Section 108-A of the KMC Act, 1976. He contends that this Court held the explanation to sub-section (2) of Section 108-A of the KMC Act, 1976 specifically requires respondent No.2 to consider the location, the type of construction, nature of use etc., before arriving at the unit area value. Petitioner claims that the respondent No.3 vide endorsement dated 19.08.2014 rejected the request made by the petitioner on the ground that the judgment of this Court in ***Seetha Kalyana Mandiram***, referred supra, applied only to properties coming within Categories IX and XIII and as the petitioner's property was a Five-star hotel, it came within Category X and therefore the judgment does not apply to the facts of the case.

(iv) The petitioner contends that Section 108-A of the KMC Act, 1976 as inserted by Act No.2 of 2009 with effect from 13.01.2009 applies only to areas falling within the jurisdiction of BBMP and contemplates the levy and calculation of property tax therein. He contends that Section 108-A(2) states that property tax shall be levied by the BBMP by resolution as



passed under Section 106 at such percentage not being less than 20% and not more than 25% of the taxable annual value of a building, vacant land or both which 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 the building. He contends that explanation to Section 108-A(2) states that unit area value means an average rate of expected returns from the property per square feet per month as determined by the Commissioner, BBMP, 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 may be considered by them as sufficient and reasonable having regard to the location, type of construction of the building, nature of use of the vacant land or building, area of the vacant land, built up area of the building, age of the building, parking area of the vehicles in non-residential building, where it is charged and such other criteria as may be prescribed. He also contends that the explanation states that 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 for different class of buildings and vacant lands. It is submitted that ascertaining or determining taxable annual value based on average rate of expected returns from the property per square feet per month determined by the Commissioner, BBMP as found in explanation to Section 108-A(2) of the KMC Act, 1976 is again beyond legislative competence. He contends that the manner of determination on this basis is highly speculative and would give great room for arbitrariness and determination of unit area value on the basis of assumptions and surmises.

(v) The petitioner has therefore approached this Court challenging the notices and the orders issued as well as sought for the reliefs mentioned above.

3. (i) A statement of objections is filed by the respondents Nos.2 and 3 contending that the action taken by the respondents to issue a demand based on a Circular dated 07.03.2013 is just and proper. Heavy reliance is placed upon the judgment of the Hon'ble Apex Court in **V. Venugopala**



Ravi Varma Rajah vs. Union of India and another [1969

AIR 1094], where it was held as follows:-

"14. Equal protection clause of the Constitution allows a large play to legislative discretion in the matter of classification. The power to classify may be exercised so as to adjust the system of taxation in all proper and reasonable ways: the Legislature may select persons, properties, transactions and objects, and apply' different methods and even rates of tax, if the Legislature does so reasonably and if the classification is rational. A taxing statute may contravene Art. 14 if it seeks to impose on the same class of property, persons, transactions or occupations similarly situate, an incidence of taxation which leads to obvious inequality, but, a taxing statute is not exposed to attack on the ground of discrimination merely because different rates of taxation are prescribed for different categories of persons, transactions, occupations or objects.

15. It is for the Legislature to determine the objects on which tax shall be levied, and the rates thereof. The Courts will not strike down an Act as denying the equal protection of laws merely because other objects could have been, but are not, taxed by the Legislature.



16. Wills in his Constitutional Law of the United States has stated at P. 587:

"A state does not have to tax everything in order to tax something. It is allowed to pick and choose districts, objects, persons, methods, and even, rates for taxation if it does so reasonably."

(ii) It is thus contended that the Hon'ble Apex Court has held that classification and categorization, it is for the State to do it who are supposed to run the State by spending huge amount on the society and it is not for the Courts to enter into that area. It is thus contended that the demand raised by the respondent Nos.2 and 3 is in accordance with the provisions of the Act and Rules. It admitted that a Circular dated 07.03.2013 was issued determining the rates for the various properties under the categories referred under Section 108-A(16) of the KMC Act, 1976. It is contended that the said Circular is in accordance with the provisions of the Act. Reference is drawn to the judgment of the Apex Court in ***Federation of Hotels and Restaurants Association of India vs. Union of India [1989 (3) SCC 634]***, where it was held as follows:

"It has been observed that tax is different from the measure of levy and purpose of measure of levy, there



can be any number of classifications. Economic superiority can also be one of the factors for the purpose of classification. The only requirement is that the same classification/object cannot be treated unequally or differently."

(iii) It is further contended that the judgment of this Court in ***Seetha Kalyana Mandiram***, referred supra, is not applicable to the facts of this case as the judgment in ***Seetha Kalyana Mandiram*** was passed under different circumstances and was in respect of a different classification. It is contended that the respondent Nos.2 and 3 are entitled to determine the property tax on the basis of the market value etc., The SAS scheme introduced by the respondent Nos.2 and 3 clearly shows the rates and categories of the properties coming under the classification of properties made by the respondent Nos.2 and 3, which is in order.

(iv) As regards the alleged discrimination meted out to owners of different classes of properties, reliance is placed upon the judgment of the Apex Court in the case of ***State of Bihar v. S.K. Sinha***, where the Apex Court relied upon the



judgment in ***P.M. Ashwathnarayana Shetty vs. State of Karnataka [AIR 1989 SC 100]***, where it was held as follows:

"23. In the case of P. M. Ashwathnarayana Shetty vs. State of Karnataka (AIR 1989 SC 100), it has been held that-

The lack of perfection in a legislative measure does not necessary imply its unconstitutionality. It is rightly said that no economic measure has yet been devised which is free from all discriminatory impact and that in such a complex arena in which no perfect alternatives exist, the court does well not to impose too rigorous a standard of criticism, under the equal protection clause, reviewing fiscal services. In G.K. Krishnan etc., etc., v. The State of Tamil Nadu and Anr. etc., [1975] 2 SCR, 715 (730) this Court referred to, with approval, the majority view in San Antonio Independent School District v. Bodrigues speaking through Justice Stewart,, 411 US. 1 at page 41):

"No scheme of taxation, whether the tax is imposed on property, income or purchases of goods and services, has yet been devised which is free of all discriminatory impact. In such a complex arena in which no perfect alternatives exist PG NO 190 the court does well not to impose too rigorous a standard of scrutiny lest all local fiscal schemes become subjects of criticism under the Equal Protection Clause."



(v) It is contended that the respondent Nos.2 and 3 have issued the demanding tax at the rate of Rs.20/- per sq. ft. and the same is supported by the Circular issued by the respondent No.2 and therefore, the petitioner is bound to pay the said property tax. The respondents claim that they have referred to the occupancy certificate issued by the competent authority based on which measurements have been taken for assessing the property to tax and it is contended that the demand so made is in accordance with the SAS scheme. It is thus contended that the demand made by the respondent Nos.2 and 3 is in accordance with law and the petitioner is bound to pay the same.

4. The learned counsel for the petitioner submitted that the impugned notification dated 09.03.2016 in so far as category VIII imposing tax at Rs.25/- per sq. ft. irrespective of the zones, is arbitrary, illegal and not in accordance with law and therefore, the notification is capricious and liable to be set aside. He contends that as per the earlier procedure, the respondents had classified the properties into six zones and the property tax and other categories are fixed as per the zones. However, in case of category VIII, the respondent authorities



have uniformly fixed tax at Rs.25/- per sq. ft. without any justification. He further contends that the increase in the rate of tax without complying with Section 102-B is illegal. He further contended that uniform applicability of rate of tax with respect to Category VIII irrespective of the zones in which they lay, is irrational inasmuch as the market value of the property at Zone - A and Category VIII is more than the market value of the properties at Zone - E or F. He further contended that the respondents have increased the property tax by almost 40% and therefore, the same is unreasonable and without the authority of law.

5. Per contra, learned counsel for the respondent Nos.2 and 3 contended that the respondents have the authority under Section 108 of the KMC Act, 1976 to impose property tax on commercial buildings and also vacant land. He submits that the method of calculation of property tax was changed from determining it on the basis of taxable capital value of the building and unit area value as provided under Section 108-A of the KMC Act, 1976. He contends that the taxable annual value of the building, vacant land or both shall be calculated by multiplying the corresponding unit area value with the total



built up area of building, vacant land or both for ten months minus depreciation as may be prescribed. He contends that the unit area value means an average rate of expected returns from the property per square feet per month on the basis of the average market rate determined through various sources and 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 buildings etc., He contends that the unit area value of buildings within the BBMP limits was published in the Official Gazette and an opportunity was provided to submit representations or suggestions and thereafter, the notification dated 21.12.2012 was issued determining the unit area value for Five-star hotels at Rs.20/- per sq. ft. He submits that this classification was just and reasonable and therefore, the rate of tax imposed on buildings coming under this category cannot be termed unreasonable or excessive. He also contends that the petitioner has not furnished any material to show how the imposition of property tax at Rs.20/- is arbitrary or unreasonable. He therefore, submits that the respondents are



authorized in law to collect different rates of tax in respect of different buildings. In the instant case, the petitioner has established a Five-star hotel and therefore, is liable to pay the property tax.

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

7. I have considered the submissions of the learned counsel for the petitioner as well as the learned counsel for the respondent Nos.2 and 3.

8. The levy, calculation and exaction of property tax in respect of the properties lying within the limits of BBMP is governed under Section 108-A of the KMC Act, 1976, which was inserted by Act No.2 of 2009 with effect from 13.01.2009. This also marked the migration of assessment of property tax based on taxable capital value of the building to the unit area value, which is explained in Section 108-A 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. Sub-section (16) of Section 108-A of the KMC Act, 1976, reads as follows;

"(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 per cent 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."

10. The respondents had issued a notification dated 31.01.2009 determining the property tax in respect of all non-residential centrally air conditioned buildings irrespective of their location at Rs.20/- per sq. ft. for properties that were 5,000 sq. ft or more. Thereafter, the respondents rationalized the basis of demanding the property tax by classifying the non-residential premises into zones and notification dated 21.12.2012 was issued whereby non-residential premises provided with centrally air conditioning were categorized on the basis of zones. However, as regards the buildings where Star hotels were established, the property tax that was prescribed under the notification dated 31.01.2009 was maintained i.e., at Rs.20/- per sq. ft. Later, the notification dated 09.03.2016 was issued, whereby the property tax for Five-star hotels is categorized in Category VIII and an uniform rate of tax at Rs.25/- per sq. ft. is determined regardless of their location.



The petitioner is aggrieved by the fact that all Five-star hotels in the city of Bengaluru do not earn the same kind of income and all of them are not similarly situated and therefore, in respect of these Five-star hotels also, they must have been categorized zone-wise and different rates of tax must have been imposed.

11. This contention of the petitioner is *ex-facie* unacceptable as the petitioner voluntarily sought Five-star rating from the State Government. It is needless to mention that this rating is meant to represent to the general public that certain standard of facilities, amenities would be provided. The cost of food, services in a Five-star hotel cannot be equated to the cost of the food and services provided in a modest hotel. At times, the sales tax paid on food and other services could even exceed the cost in a modest hotel. The Hon'ble Apex Court while considering a case of classification of hotels for imposition of different slabs of tax on hotels and restaurants in the case of ***Kerala Hotel and Restaurant Association and others vs. State of Kerala and others [(1990) 2 SCC 502]***, held as follows:



"22. We shall now mention the arguments advanced by learned counsel challenging this imposition in the two States. The power of the State Legislature to levy sales tax by virtue of Entry 54 in list II of the Seventh Schedule to the Constitution and the availability of that power in the present case to impose sales tax on food and drinks by virtue of Clause (29A) inserted in Article 366 of the Constitution by the Constitution (Forty-sixth Amendment) Act, 1982, is rightly not disputed. However, it is contended that the classification made of the food and drinks taxed and those exempted is discriminatory and arbitrary. It was urged that the classification is not based on the goods taxed but on the status of the consumers which is not permissible. It was urged that the commodity taxed being the same as that exempted, the difference being only in the place of their sale, differentiation for taxation on the basis of place of sale is impermissible. It was argued that Article 366(29A) permits imposition of tax on sale of food and drinks in any form but it does not permit a differentiation with reference only to the place of sale. It was also urged that the classification in such cases based only on turnover may be permissible for administrative and some other reasons but not on the place of sale, the status of the customer or difference in the impact of such tax on the customer. It was also contended that the classification made with reference to the status of hotel has no nexus with the object of imposition of sales tax because the approval for the star status is for a different



purpose relating to tourism and the other amenities provided in the hotel. An attempt was also made to contend that the quality of food need not necessarily be superior in a hotel of higher star status as compared to an ordinary eating house and the charges for food served in the luxury hotels also include the service charges and not merely the cost of food. Similarly, it was urged that a distinction made on the basis of a bar being attached to this hotel has no relevance or justification for the classification made in this context. In reply, it was contended by Shri P.S. Poti and Shri K. Rajendra Choudhary on behalf of the two State Governments that such classification being permissible the mode to be adopted is the legislature's choice which has chosen a pragmatic mode based on an existing classification instead of undertaking the exercise of a new classification to identify the two categories of eating houses, the sales wherein should be taxed or exempted. It was urged that unless the classification so made is found to be arbitrary, there is no ground to reject the same and substitute it with another method simply because another method may be more desirable. It was also contended that the object being to raise only limited revenue from this source, it was decided to tax only the sale of costlier food and thereby confine the burden only to fewer people on whom the burden would be light with the added advantage of greater administrative convenience.



23. A catena of decisions was cited at the bar on the point relating to valid classification and the test to be applied when hostile discrimination is alleged. It is not necessary to refer to all those decisions which state the settled principles not in dispute even before us. The difficulty really is in the application of settled principles to the facts of each case. It is settled that classification rounded on intelligible differentia is permitted provided the classification made has a rational nexus with the object sought to be achieved. In other words, those grouped together must possess a common characteristic justifying their inclusion in the group, but distinguishing them from those excluded; and performance of this exercise must bear a rational nexus with the reason for the exercise.

24. The scope for classification permitted in taxation is greater and unless the classification made can be termed to be palpably arbitrary, it must be left to the legislative wisdom to choose the yardstick for classification, in the background of the fiscal policy of the State to promote economic equality as well. It cannot be doubted that if the classification is made with the object of taxing only the economically stronger while leaving out the economically weaker sections of society, that would be a good reason to uphold the classification if it does not otherwise offend any of the accepted norms of valid classification under the equality clause.



25. Broadly stated the points involved in the constitutional attack to the validity of this classification are, in substance, only two:

- (1) Is the classification of sales of cooked food made with reference to the eating houses wherein the sales are made, rounded on an intelligible differentia? and
- (2) If so, does the classification have a rational nexus with the object sought to be achieved?

26. It would be useful at this stage to refer to some decisions of this Court indicating the settled principles for determining validity of classification in a taxing statute. In *Ganga Sugar Corporation Limited v. State of Uttar Pradesh and Ors.*, [1980] 1 SCC 223, Krishna Iyer, J. speaking for the Constitution Bench held that a classification based, inter alia, on "profits of business and ability to pay tax" is constitutionally valid. Classification permissible in a taxing statute of dealers on the basis of different turnovers for levying varying rates of sales tax was considered by the Constitution Bench in *M/s S. Kodar v. State of Kerala*, [1974] 4 SCC 422, and Mathew, J. therein indicated the true perspective as under:

"As we said, a large dealer occupies a position of economic superiority by reason of his volume of business and to make the tax heavier on him both absolutely and relatively is not



arbitrary discrimination but an attempt to proportion the payment to capacity to pay and thus arrive in the end at more genuine equality. The capacity of a dealer, in particular circumstances, to pay tax is not an irrelevant factor in fixing the rate of tax and one index of capacity is the quantum of turnover. The argument that while a dealer beyond certain limit is obliged to pay higher tax, when others bear a less tax, and it is consequently discriminatory really misses the point namely that the former kind of dealers are in a position of economic superiority by reason of their volume of business and form a class by themselves. They cannot be treated as on a part with comparatively small dealers. An attempt to proportion the payment to capacity to pay and thus bring about a real and factual equality cannot be ruled out as irrelevant in levy of tax on the sale or purchase of goods. The object of a tax is not only to raise revenue but also to regulate the economic life of the society."

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31. The obvious reason for making the classification in the present case is to group together those eating houses alone wherein costlier cooked food is sold for the purpose of imposition of sales tax to raise the needed revenue from this source. The object apparently is to raise the needed revenue from this source by taxing the sale of cooked food only to the extent necessary and, therefore, to confine the levy only to the costlier food. The predominant object is to tax sale of cooked food to the minimum extent possible, since it is a vital need for sustenance. Those who can afford the costlier cooked food, being more affluent, would find the



burden lighter. This object cannot be faulted on principle and is, indeed, laudable. In addition, the course adopted has the result of taxing fewer people who are more affluent in the society for raising the needed revenue with the added advantage of greater administrative convenience since it involves dealing with fewer eating houses which are easier to locate. This accords with the principle of promoting economic equality in the society which must, undoubtedly, govern formulation of the fiscal policy of the State.

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34. It was urged that eating houses serving cooked food of the same quality but not recognised with the higher star status to bring it within the tax net enjoyed an undue advantage not available to those within the tax net. It was also urged that recognition of a hotel for conferment of the star status was made for a different purpose, namely, promotion of tourism and the other facilities available therein which have no relevance to the quality of food served therein. Admittedly, such recognition entails several benefits and seeking recognition depends on volition. In our opinion, such an enquiry is unwarranted for the purpose of classification in the present context. It is well-known that the tariff in hotels depends on its star status, it being higher for the higher star hotels. The object being to tax cooked food sold at a higher tariff, the status of the hotel where it is sold is certainly relevant. The classification is made in the



present case to bring within the tax net hotels or eating houses of the higher status excluding therefrom the more modest ones. A rational nexus exists of this classification with the object for which it is made and the classification is rounded on intelligible differentia. This being a relevant basis of classification related to the avowed object, the legislature having chosen an existing classification instead of resorting to a fresh method of classification, it cannot be a ground of invalidity even assuming there are other better modes of permissible classification. That is clearly within the domain of legislative wisdom intrusion into which of judicial review is unwarranted. There is no material placed before us to indicate that with reference to the purpose for which the classification has been made in the present case, there is a grouping together of dissimilar eating houses or that similar eating houses have been excluded from the class subject to the tax burden."

12. Thus, treating Five-star hotels as a class and imposing uniform slab of tax is based on intelligible differentia and had a rational nexus with the objective of raising revenue without imposing undue burden on those unable to afford luxury services. The Hon'ble Apex Court in the aforesaid judgment, recognized the discretion of the legislature in determining the appropriate method of classification and held



that unless classification is palpably arbitrary, it should not be interfered.

13. A Bench of Co-ordinate strength of High Court of Delhi in ***Eros Resorts and Hotel Ltd., and another vs. Municipal Corporation of Delhi, through its Commissioner [2025 SCC OnLine Del 5981]*** was considering the very same point that is involved in this writ petition and it was held as follows:-

"106. These hotels voluntarily seek star accreditation, thereby positioning themselves within a segment that targets affluent clientele and delivers luxurious experiences at a premium cost. In light of this, the legislative intent underlying the imposition of elevated property tax rates on such establishments is to equitably distribute the fiscal burden, ensuring that those possessing greater capacity to pay contribute proportionately to the public revenue. This mechanism advances the tenet of economic equity, whereby taxation is calibrated to reflect not merely ownership, but also various other factors such as the economic stature and voluntary positioning of the establishment. Conversely, more modest residential and commercial properties, serving the general public and devoid of such luxury facilities, are insulated from such heightened levies, thereby safeguarding the interests of the economically weaker sections.



107. Moreover, in light of the explication of the legal standing of star-rated hotels in the cases of *Kerala Hotel & Restaurant Association*, the Court finds that the star-rating system, which is used to classify hotels based on the quality of their services, infrastructure, and amenities, provides an intelligible and rational basis for this distinction.

108. Further, this Court observes that the legislative wisdom in adopting an existing classification system, such as the MoT's star rating, is well within the permissible bounds of legislative discretion. The decision to use an already established classification, rather than creating a new one, serves the dual purpose of administrative convenience and fairness. The star-rating system is an objective and widely recognized standard that provides a practical mechanism for distinguishing between high-end and modest hotels that offer a spectrum of services. To mandate a fresh classification would unnecessarily complicate the legislative process and introduce greater subjectivity. The Court, therefore, holds that the reliance on the star-rating system is not only rational but also serves the purpose of ensuring fairness and reducing the administrative burden associated with determining which hotels should be subject to higher taxes and which to lower. Furthermore, it is not the case of the petitioners herein that the star-rating based classification has led to any over-inclusion or under-inclusion or has created a situation of unequals being pitched together in a common class. The star-ratings are based on a host of factors and are intended to



target a certain section of society and thus, the hotels placed in a common star category share similar economic dynamics. Consequently, the exaction of tax from such similarly placed hotels could not be termed as arbitrary or unconstitutional.

109. Having observed so, it is equally essential to point out that in judicial review of fiscal matters, especially taxation, arithmetic accuracy is neither possible nor desirable, as also reiterated by this Court in *Harshvardhan Bansal*. It is so because arithmetically, one could always argue that not all 5-star hotels generate equal income or attract the same clientele. It might be so. Conversely, for example, it could also be argued that there is no equality in terms of the food prices charged by the starred hotels and other modest restaurants for serving the same food. It would be absurd to press for equality in such a scenario, as the higher food prices in starred hotels correspond with a whole ecosystem inclusive of better services, ambience, affluence, infrastructure, allied services, etc. Thus, the higher burden is not without basis, as it corresponds to the facilitation of an ecosystem which promotes higher income generation. Be that as it may, a constitutional Court is not required to enter into this arithmetical exercise to achieve perfect equality. The task before the Court is to determine whether the classification is based on sound parameters or not. Once the underlying basis of the classification is found to be reasonable on broad parameters, the Court would be justified in upholding the classification. Of course, there could be multiple ways to



approach a problem, but the Court is not expected to offer its wisdom in matters of policy. It is only required to determine whether the method adopted by the legislature is constitutionally sound or not.

110. The classification made by the legislature on the basis of predetermined star ratings does not constitute class legislation, rather, it is a reasonable classification under the law. The object of the legislation is not to create arbitrary distinctions but to identify a rational basis for the imposition of taxes. Such differentiation is not only permissible but necessary to achieve the legitimate objective of raising revenue without unduly burdening the economically weaker sections of society.

111. It is a matter of settled commercial practice and consumer perception that brands, trademarks, and symbolic representations exert a significant influence upon the minds of consumers. In the hospitality sector, particularly, the assignment of star ratings to hotels carries substantial weight and operates as a representation of the quality, standard, and amenities guaranteed to the consumer. By way of illustration, the classification of a hotel as a '5-star Hotel' is not a mere decorative description but an assurance of threshold standards, facilities, and services which the consumer is expecting. Across jurisdictions, the said categorisation is uniform and mandates the maintenance of minimum prescribed standards, thereby engendering a legitimate expectation on the part of the consumer.



112. It is further pertinent to note that in the contemporary digital age, the relevance of such categorisation is accentuated, inasmuch as leading travel and hospitality platforms such as *MakeMyTrip*, *GoIbibo*, *Agoda*, and similar aggregators invariably reflect and segregate hotels under distinct classifications, wherein the category of '5-star Hotels' is separately denoted and highlighted. The said classification, therefore, operates as a critical factor in consumer choice and decision-making.

113. The contention advanced by the petitioners that such classification is purely voluntary is devoid of merit. The very act of voluntarily applying for, and thereafter obtaining, the 5-star certification constitutes an express representation made by the petitioners to the regulatory authorities and, by necessary implication, to the consuming public at large. Having sought and secured the benefits emanating from such categorisation, including but not limited to enhanced reputation, market visibility, consumer confidence, and preferential consideration in travel platforms, the petitioners cannot now be heard to contend that such certification is devoid of binding obligations or is a matter of mere formality. The petitioners, having availed themselves of the benefits of star classification, are estopped from asserting its voluntariness to evade the attendant obligations and responsibilities. Of course, it could be acknowledged that a greater tax burden would affect the profitability of the business of the petitioners, however, mere loss of profit is not a ground to declare a tax statute as unconstitutional.



The underlying financial burden is implicit in every tax, but it should not be confiscatory in nature."

14. In the instant case too, the petitioner except claiming that treating all Five-star hotels as a class is manifestly arbitrary, no material is placed on record to justify how the same is manifestly arbitrary as contended.

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

16. In view of dismissal of the petition, pending I.As., if any, do not survive for consideration and the same stand dismissed.

Sd/-
(R. NATARAJ)
JUDGE