2026:CHC-OS:119

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

RESERVED ON: 15.12.2025
DELIVERED ON: 10.04.2026

PRESENT:

THE HON'BLE MR. JUSTICE GAURANG KANTH

WPO 362 OF 2024
IA No: GA/2/2025, GA/3/2025

INDIAN CITY PROPERTIES LTD. AND ANR.
VERSUS
THE KOLKATA MUNICIPAL CORPORATION AND ORS.

Appearance: -

Mr. Arindam Banerjee, Sr. Adv.
Ms. Arpita Saha, Adv.
Mr. Asish Kr. Mukherjee, Adv.
Mr. Saurabh Prasad, Adv.
..... for the Petitioners

Mr. Jaydip Kar, Sr. Adv.
Ms. Piyali Sengupta, Adv.
Mr. Swapan Kr. Debnath. Adv. ***..... For the KMC***

Mr. Kishore Datta, Ld. A.G.
Mr. Sirsanya Bandyopadhyay, Adv.
Mr. Vivekananda Bose, Adv.
Ms. Anjusri Mukherjee, Adv.
Ms. Susmita Biswas Chowdhury, Adv. ***..... for the State***

JUDGMENT

Gaurang Kanth, J. :-

1. The Petitioner has preferred the present writ petition seeking a declaration that Section 232B and proviso to Section 180(2) of the Kolkata Municipal Corporation Act, 1980 are ultra vires to Articles 14, 19, and 300A of the Constitution of India and are therefore, void and inoperative under Article 13 thereof. The Petitioner has further prayed for quashing and setting aside the memo dated 08.01.2024, along with thirteen other notices dated

04.01.2024, issued for the purpose of retrospective revaluation of Premises No. 25, Brabourne Road (presently known as Biplabi Trailokya Maharaj Sarani), Kolkata–700001.

2. At the outset, it is pertinent to note that this Court, by its judgment dated 24.03.2026 in WPO No. 1220 of 2024, in ***Sahujain Charitable Society & Anr. v. The Kolkata Municipal Corporation & Ors.,*** held that Section 179(2)(d) of the Kolkata Municipal Corporation Act, 1980, as substituted by Section 3 of the Kolkata Municipal Corporation (Amendment) Act, 2022, shall be operative without the opening non-obstante clause *and* without sub-clause (ii) whereas sub-clause (i) shall be enforced as enacted, permitting revision of annual valuation within six year from the expiration of the relevant period.

3. Before adverting to the facts of the case, it is necessary to elucidate the statutory framework of the KMC Act and trace the evolution of its amendments, which together form the legal genesis underpinning the challenge to Section 232B and the Proviso to Section 180(2).

Legal Genesis underpinning the Challenge to Section 232B and the Proviso to Section 180(2)

4. The Kolkata Municipal Corporation Act, 1980 (hereinafter 'KMC Act, 1980') was enacted to repeal the Calcutta Municipal Act, 1951, and came into force on 04.01.1984.

5. From its inception, the assessment of annual valuation under the KMC Act, 1980 was governed by Section 174 pursuant to the Annual Rateable Value ('ARV') system.

6. The Kolkata Municipal Corporation (Amendment) Act, 2006 ('2006 Act'), which came into effect on 01.05.2007, introduced substantial amendments to Part IV of the KMC Act and replaced the ARV system with the Unit Area Assessment ('UAA') system. Consequently, the provisions governing the ARV system were repealed, and new provisions pertaining to the UAA system were incorporated.

7. It was soon realized, however, that significant preparatory work was necessary to operationalize the UAA system, making its immediate implementation unfeasible.

8. To address this transitional difficulty, the Kolkata Municipal Corporation (Amendment) Act, 2008 ('2008 Act'), effective from 01.04.2008, inserted Section 174(3), providing that until annual valuations under the UAA system were determined, the valuation of land and buildings would continue to be carried out under the pre-2006 ARV provisions.

9. Subsequently, the Kolkata Municipal Corporation (Amendment) Act, 2011 ('2011 Act'), effective from 01.01.2012, introduced Section 232A, stipulating that certain pre-2006 provisions of the KMC Act would continue to operate until the final publication of the Scheme under Section 174(1).

10. The UAA Scheme was ultimately published with effect from 01.04.2017. Accordingly, the ARV system remained applicable until 30.03.2017, after which the UAA system formally came into force from 01.04.2017.

11. Thereafter, Section 232B was inserted by the Kolkata Municipal Corporation (Amendment) Act, 2022 ('2022 Act'), clarifying that Sections 171(1), (2), (3), (8), and (9); Section 174(1); and Sections 175, 179, 180, 182A, and 185, as they existed immediately prior to the 2006 amendment,

along with Section 174(3), would continue to be applicable for any action relating to the assessment of annual valuation, levy of property tax, or any connected proceedings for any period prior to the publication or enforcement of the Scheme under Section 174(1) read with Section 179(2)(a) of the KMC Act, as amended in 2006.

12. In addition, a proviso was added to Section 180(2), stipulating that revisions of annual valuation would ordinarily be undertaken within six year of the occurrence of the relevant circumstances, except where the owner or person liable to pay property tax fails to submit a return under Section 182 or suppresses the occurrence of such circumstances.

13. The principal challenge to these amendments is that the expression 'any period' in Section 232B, coupled with the absence of a prescribed limitation in the second limb of the proviso to Section 180(2), purportedly empowers the Respondents to impose retrospective and indefinite liability. It is contended that such provisions could enable the Kolkata Municipal Corporation to reopen past assessments without temporal restriction, leaving them perpetually unsettled, and confer an unfettered executive power. The Petitioner asserts that such unconstrained authority offends Article 14 of the Constitution and infringes the property rights guaranteed under Article 300A.

14. It is also to be noted that the by the said Amendment Act, 2022, Section 179(2)(d) was substituted with an entirely new clause. This Court vide separate Judgement dated 24.03.2026 in WPO No. 1220 of 2024, in ***Sahujain Charitable Society & Anr. v. The Kolkata Municipal Corporation & Ors***. held that Section 179(2)(d) of the Kolkata Municipal Corporation Act, 1980, as substituted by Section 3 of the Kolkata

Municipal Corporation (Amendment) Act, 2022, shall be operative without the opening non-obstante clause and without sub-clause (ii) whereas sub-clause (i) shall be enforced as enacted, permitting revision of annual valuation within six year from the expiration of the relevant period.

15. In this context, it is pertinent to refer to the judgment of this Court in ***Sahujain Charitable Society & Anr. v. Kolkata Municipal Corporation & Ors.,*** reported as ***2018 SCC OnLine Cal 4793***, which examined the legal framework governing annual valuation prior to the introduction of the UAA system. In that case, the petitioners challenged the constitutional validity of the second proviso to Section 179(2)(d) of the KMC Act, contending that the expression "at any time" conferred upon the Municipal Commissioner an unguided and unrestricted authority to revise valuations retrospectively, thereby exposing taxpayers to unlimited liability. This Court held that such uncanalised powers, being unlimited in point of time and scope, violated Article 14 and read down the proviso by prescribing a limitation, restricting retrospective revision to three years preceding the date of the revising order. The judgment was subsequently challenged before the Hon'ble Supreme Court via Special Leave Petition, which was dismissed. A Review Petition before this Court was also dismissed, and a further SLP by the Municipal Corporation was similarly dismissed, thereby affirming the three years limitation on retrospective revisions.

16. The present challenge to Section 232B and the proviso to Section 180(2) of the KMC Act, 1980 arises from the grievance that the 2022 amendments, if interpreted in an unqualified manner, could revive an unbounded and unguided power of retrospective assessment, contrary to the safeguards

recognized in ***Sahujain Charitable Society*** *(supra)*, and potentially expose taxpayers to arbitrary or indefinite liability.

17. In this backdrop, it is important to examine the facts of the present case.

Facts of the present case

18. Petitioner No. 1 is the owner of the aforesaid commercial premises, constructed between 1962 and 1965, comprising a basement, ground floor and ten upper floors. The property stands assessed for municipal tax under Assessee No. 110450400154.

19. The annual valuation of the premises was last determined with effect from the fourth quarter of 2004–2005 at Rs. 47,48,070/-, and the Petitioner has been regularly paying municipal taxes up to date.

20. On 29.03.2023, the Petitioner received a notice from the Assistant Assessor-Collector (North), Division XV, Kolkata Municipal Corporation, calling upon it to furnish particulars of all tenants along with copies of rent agreements relating to the said premises. In response, the Petitioner, by its letter dated 15.06.2023, submitted the requisite details and the available rent agreements.

21. Thereafter, the Petitioner received the impugned notice dated 08.01.2024 issued under Sections 184 and 185 of the Kolkata Municipal Corporation Act, 1980, proposing to revise the annual valuation of the premises retrospectively from the first quarter of 2005–2006 up to the third quarter of 2016–2017 by undertaking thirteen intermediate revaluations under Section 180(2), applying the ARV system. The said notice further proposed eight additional intermediate revaluations under the UAA scheme for the period commencing from the first quarter of 2017–2018 to the third quarter of 2022–2023. In addition, the Petitioner received thirteen separate

notices dated 04.01.2024 corresponding to each of the proposed intermediate revaluations.

22. The Petitioner, by its reply dated 09.02.2024, objected to the maintainability of the impugned notices and set out detailed submissions in opposition thereto. A Hearing Officer was thereafter appointed, and proceedings commenced before him. From the reply filed by the Respondent Corporation before the Hearing Officer, it became evident that the Respondent sought to justify its proposed actions by relying upon Section 232B and the proviso to Section 180(2) of the Kolkata Municipal Corporation Act, 1980.

23. As the Hearing Officer does not possess the jurisdiction to adjudicate upon the constitutional validity of statutory provisions, the Petitioner preferred the present writ petition challenging the constitutional validity of the said provisions.

Submission on behalf of the Petitioner

24. Mr. Arindam Banerjee, learned Senior Counsel for the Petitioner, commenced his submissions by placing an alternative construction for consideration, notwithstanding that the principal challenge in the present writ petition concerns the constitutional validity of Section 232B and the second proviso to Section 180(2) of the Kolkata Municipal Corporation Act, 1980.

25. Learned Senior Counsel submitted that under the erstwhile second proviso to Section 179(2)(d), the Municipal Commissioner was empowered to undertake a general revaluation after the expiry of six years and to make retrospective adjustments *"at any time."* The Hon'ble Division Bench of this Court in ***Sahujain Charitable Trust*** (supra) read down the

expression *"at any time"* to restrict retrospective revision to a period of three years prior to the revising order.

With the final publication of the UAA Scheme with effect from 01.04.2017, the second proviso to Section 179(2)(d) stood repealed, and the substituted provisions under the UAA regime came into force. However, by the subsequent insertion of Section 232B, provisions of the ARV system were revived to the extent necessary for completing assessments pertaining to periods prior to the introduction of the UAA system. According to learned Senior Counsel, this revival necessarily includes the second proviso to Section 179(2)(d) as judicially interpreted in ***Sahujain Charitable Trust*** (supra). Consequently, what stands revived is not the original unqualified provision, but the read down version limiting retrospective revision under the ARV system to three years.

With respect to the second proviso to Section 180(2), learned Senior Counsel submitted that no such proviso existed prior to the introduction of the UAA system and that it was inserted for the first time vide notification dated 04.05.2023. The proviso prescribes an ordinary outer limit of six years for undertaking intermediate revaluations. It was contended that this proviso is applicable solely to the UAA regime and cannot operate to reopen ARV based assessments beyond the inception of the UAA system. Therefore, even under this alternative interpretation, the Respondent would be precluded from travelling back beyond 01.05.2007.

26. Turning to the principal constitutional challenge, learned Senior Counsel for the Petitioner submits that, if the language employed in Section 232B and the second proviso to Section 180(2) is interpreted as authorising

retrospective revaluation of annual value under the erstwhile ARV system for an indefinite and unlimited period in the past, such an interpretation would render both provisions unconstitutional. It is urged that conferring unbounded and temporally unrestricted power upon the municipal authority is manifestly arbitrary and, therefore, violative of Article 14 of the Constitution of India. Learned Senior Counsel places reliance on the principles laid down in ***Santosh Kumar Shivgonda Patil v. Balasaheb Tukaram Shevale***, reported as ***(2009) 9 SCC 352***; ***State of Gujarat v. Patil Raghav Natha***, reported as ***(1969) 2 SCC 187***; ***Pune* Municipal Corporation v. State of Maharashtra**, reported as ***(2007) 5 SCC 211***; ***State of H.P. v. Rajkumar Brijender Singh***, reported as ***(2004) 10 SCC 585;*** and ***Md. Kavi Md. Amin v. Fatmabai Ibrahim***, reported as ***(1997) 6 SCC 71***, to contend that statutory powers which are unguided, uncanalised, or susceptible to arbitrary exercise must be struck down as offending the equality mandate under Article 14.

27. In regard to Section 232B, it is submitted that the provision is, by its very nature, transitory and was intended to exhaust itself upon the final publication of the UAA Scheme, which brought about the repeal and replacement of the ARV system. It is urged that citizens had acquired vested rights and settled benefits under the ARV regime, and for more than six years have been governed exclusively by the UAA framework. Reliance is placed on the principle that vested rights cannot be divested except through clear legislative mandate that passes constitutional scrutiny, a principle reiterated by the Hon'ble Supreme Court in ***Rai Ramkrishna v. State of Bihar***, reported as ***1963 SCC OnLine SC 31***, and again in ***Janapada Sabha Chhindwara v. Central Provinces Syndicate Ltd.***,

reported as ***(1970) 1 SCC 509***. At this stage, the revival of the ARV mechanism through Section 232B is said to result in the deprivation of these vested benefits without any rational justification.

28. It is further argued that Section 232B would empower the Corporation to undertake multiple retrospective revisions of annual valuation for any point of time under the erstwhile ARV system, thereby artificially inflating the entry-level tax liability under the UAA regime. Such retrospective imposition, according to the Petitioner, would impose serious financial prejudice upon owners and persons primarily liable for property tax. Owing to the long lapse of time, it would become impossible for owners to meaningfully contest the factual foundations of such assessments, since material evidence may no longer be available. The Petitioner submits that the inability to recover proportionate amounts from tenants or occupiers after such extended periods would result in manifest unfairness. The conferment of an unrestricted authority to reopen the past, it is argued, is *ex facie* violative of the rule in ***Sahu Jain Charitable Society*** *(supra)*, which held that unguided retrospective revaluation is contrary to Article 14.

29. With respect to the second proviso to Section 180(2), learned Senior Counsel submits that the use of the expression "ordinarily" while prescribing a six-year limit for retrospective intermediate revaluation introduces vagueness into the statutory framework. No parameters or guidelines are provided to determine when such limitation must apply, and when it may be disregarded. A fiscal provision that leaves essential conditions to the unguided discretion of the executive, it is argued, is arbitrary and violative of Article 14. In this regard, reliance is placed on

Municipal Corporation of Ahmedabad v. New Shrock Spg. & Wvg. Co., reported as ***(1970) 2 SCC 280***, which emphasises that taxation statutes must provide clear standards to prevent arbitrary application, and ***Krishna Bhatt v. State of Karnataka,*** reported as ***(2001) 4 SCC 227***, which recognises that uncertain tax burdens violate constitutional safeguards.

30. It is further submitted that the proviso authorises unlimited retrospectivity where there is non filing of returns under Section 182 or suppression of taxable events under Section 180(2). However, under the ARV regime, filing of returns was not mandatory. The proviso, introduced long after the repeal of the ARV system, now treats non-filing of returns as a basis for severe adverse consequences. Reliance is placed on ***Bakhtawar Trust v. M.D. Narayan,*** reported as ***(2003) 5 SCC 298,*** and ***Hari Singh v. Military Estate Officer,*** reported as ***(1972) 2 SCC 239***, which hold that retrospective imposition of burdens that were not capable of compliance at the relevant time violates fairness and reasonableness under Article 14. It is therefore argued that non-filing of returns during a period when such filing was not required by law cannot now be equated with suppression of material facts. Unlimited retrospectivity, it is submitted, would also defeat the statutory right of recovery conferred under the same enactment.

31. Learned Senior Counsel further contends that the impugned provisions amount to a legislative attempt to nullify or overrule binding judicial decisions rendered against the State particularly the judgment in ***Sahu Jain*** (supra), which had placed a temporal cap on retrospective revision. It is submitted that while the legislature may enact laws to remove the basis of a judicial decision, it cannot simply override the judgment or re-enact

an invalid provision in substance. Reliance is placed on ***Shri Prithvi Cotton Mills Ltd. v. Broach Borough Municipality,*** reported as ***(1969) 2 SCC 283*; *State of Tamil Nadu v. M. Rayappa Gounder,*** reported as ***(1971) 3 SCC 1*;** and ***S.R. Bhagwat v. State of Mysore,*** reported as ***(1995) 6 SCC 16***, which collectively affirm that legislative overruling of judicial decisions is unconstitutional when it seeks to defeat judicial pronouncements without curing the underlying defect.

32. To further substantiate his submissions, learned Senior Counsel relies upon ***Tata Motors Ltd. v. State of Maharashtra,*** reported as ***(2004) 5 SCC 783; R.C. Tobacco (P) Ltd. v. Union of India,*** reported as ***(2005) 7 SCC 725*;** and ***Medical Council of India v. State of Kerala,*** reported as ***(2019) 13 SCC 185,*** to contend that fiscal legislation cannot impose arbitrary, uncertain, or retrospective burdens that fail the test of manifest reasonableness. According to him, the impugned provisions confer unrestricted and unguided power upon the executive to reopen assessments indefinitely, thereby offending Article 14 and rendering the provisions constitutionally invalid.

33. In conclusion, the learned Senior Counsel for the Petitioner prays that the impugned provisions be declared unconstitutional. In the alternative, he requests that they be interpreted in a manner that does not confer upon the Municipal Commissioner an unfettered and unlimited power to reopen or revise past assessments.

<u>Submissions on behalf of the State of West Bengal</u>

34. Appearing on behalf of the State of West Bengal, the learned Advocate General, Mr. Kishore Datta, submitted that the power of the State Legislature to legislate on municipal taxation, including the assessment

and recovery of property tax, is traceable to Entry 5 of List II of the Seventh Schedule to the Constitution of India. This power, it was contended, must be read in conjunction with Part IX-A of the Constitution, introduced with effect from 20.04.1993, which accords constitutional status to municipalities as institutions of self-government. A conjoint reading of Entry 5 of List II and Part IX-A, it was argued, makes it clear that legislative competence in matters of municipal taxation vests exclusively with the State Legislature, subject only to the condition that such legislation must not transgress the constitutional framework under Part IX-A. Unless the impugned legislation is shown to be ultra vires Part IX-A, no other constitutional restriction can be invoked to invalidate it. Reliance in this regard was placed on ***State of Rajasthan v. Ashok Khetoliya,*** reported as **(2022) 12 SCC 185**.

35. The learned Advocate General submitted that the impugned amendment forms part of a community-based municipal fiscal framework governing local taxation. Being an incident of sovereign taxing power exercised at the municipal level, such legislation cannot be tested on the anvil of Articles 14, 19, or 300-A of the Constitution in the manner suggested by the petitioners, in the absence of manifest arbitrariness or lack of legislative competence.

36. It was contended that the Amendment Act does not create any new or additional tax liability. It merely regulates the procedure and mechanism for assessment and recovery of an existing statutory levy which inheres in the property under the parent enactment. Property tax, it was submitted, is a continuing charge attached to the property and does not depend upon the timing of assessment or revaluation.

37. The learned Advocate General further submitted that the impugned amendment is not retrospective in the legal sense. A statute does not become retrospective merely because certain facts or conditions relevant to its operation pertain to a period antecedent to its enactment. The absence of assessment or recovery for a particular period does not confer a vested right upon an assessee to claim immunity from taxation once the law provides otherwise. The levy or recovery of property tax with reference to an earlier period does not impose a fresh liability upon a past transaction, but merely enforces an existing statutory obligation. The permissibility of such operation of fiscal statutes, it was submitted, stands recognised by the Hon'ble Supreme Court in **D.G. Gose & Co. (Agents) Pvt. Ltd. v. State of Kerala,** reported as ***(1980) 2 SCC 410***.

38. It was further submitted that, in any event, the concept of retrospective operation is inherent in the statutory scheme of the Kolkata Municipal Corporation Act, 1980. The Act casts an initial obligation upon the assessee to file returns, following which the Corporation is empowered to undertake assessment or revaluation. Upon completion of such process, any differential amount becomes recoverable as arrears. Property tax, being a recurring and continuing liability attached to the property, continues to accrue irrespective of the time taken to complete assessment or revaluation.

39. Addressing the issue of limitation, the learned Advocate General submitted that although Section 573 of the KMC Act prescribes a three-year limitation for recovery of certain dues, such as charges, costs, expenses, fees, rates, rents, or other accounts, the provision consciously excludes tax, building tax, or property tax from its ambit. Property tax is levied and

recovered under Chapter XVI of the Act, which constitutes a complete and self-contained code providing a distinct mechanism for its assessment and realisation. Consequently, Section 573 has no application to recovery of property tax. In support of this submission, reliance was placed on ***Calcutta Municipal Corporation v. Abdul Halim Gaznavi Molla***, reported as ***AIR 1998 Cal 345***; ***Nepal Chandra Kar v. Calcutta Municipal Corporation***, reported as ***2003 (1) CHN 380***; and ***Nazim's Restaurant Pvt. Ltd. v. Kolkata Municipal Corporation***, reported as ***2023 SCC OnLine Cal 5723***.

40. It was further contended that the Division Bench decision in ***Sahujain charitable Society*** (supra) was rendered without taking into consideration earlier binding Division Bench judgments on the same issue and, therefore, does not lay down the correct position of law. According to the learned Advocate General, the judicial reading of a limitation period into the statute, where the Legislature has consciously chosen not to prescribe one, amounts to impermissible judicial legislation.

41. The learned Advocate General further submitted that hardship or administrative inconvenience cannot constitute a ground for striking down a fiscal statute. Several fiscal enactments, including those under the SARFAESI Act and the DRT framework, impose onerous consequences, yet have consistently been upheld in the absence of constitutional infirmity.

42. It was finally submitted that there is neither any challenge to the legislative competence of the State Legislature nor any violation of Article 14 of the Constitution. None of the recognised grounds for invalidating legislation, such as lack of competence, manifest arbitrariness, or unreasonableness, are attracted in the present case. The petitioners'

grievance, at its highest, relates only to alleged hardship, which cannot furnish a legally sustainable basis for striking down a fiscal provision. The learned Advocate General accordingly prayed for dismissal of the writ petition.

Submissions on behalf of the Respondent (Kolkata Municipal Corporation)

43. *Per contra*, Mr. Jaydip Kar, learned Senior Counsel appearing for the Respondent Municipal Corporation, submits that the challenge to the constitutional validity of Section 3 of the Kolkata Municipal Corporation (Amendment) Act, 2022 is wholly misconceived and devoid of merit. It is contended that the impugned provision squarely falls within the legislative competence of the State Legislature and constitutes an integral part of a rational and comprehensive statutory framework governing municipal taxation.

44. The Respondent Corporation submits that the impugned amendment represents a valid exercise of legislative power to enact retrospective fiscal legislation, particularly for the purpose of curing defects which had rendered the earlier statutory regime unenforceable. It is well settled that the Legislature is competent to enact laws with retrospective effect, including validating statutes, provided the basis of the judicial declaration of invalidity is removed by an appropriate statutory cure. Learned Senior Counsel submits that the Hon'ble Supreme Court has consistently recognised the power of the Legislature to neutralise the foundation of a judicial decision through retrospective legislation. In the present case, the amendment expressly addresses the deficiencies noted in the earlier judgment and, therefore, satisfies the constitutional parameters of a valid validating enactment. Reliance in this regard is placed on ***Rai***

Ramakrishna v. State of Bihar*,** reported as ***1963 SCC OnLine SC 31; ***Amarendra Kumar Mohapatra v. State of Orissa*,** reported as ***(2014) 4 SCC 583;*** and ***Katikara Chintamani Dora v. Guntreddi Annamanaidu*,** reported as ***(1974) 1 SCC 563***.

45. It is further submitted that the Legislature is not precluded from retrospectively modifying fiscal provisions when such modification is founded upon a rational policy objective and is accompanied by a statutory correction addressing the defect identified by the Court. The impugned amendment, it is urged, is remedial and curative in nature and seeks to protect municipal revenue, which is essential for effective local governance and public administration.

46. Placing reliance on the Constitution Bench decision in ***Commissioner of Income Tax (Central)-I v. Vatika Township Pvt. Ltd.*,** reported as ***(2015) 1 SCC 1***, the Respondents submit that while retrospective fiscal legislation must be clear, certain, and unambiguous, the present enactment meets these requirements inasmuch as it clearly delineates the manner, extent, and temporal operation of the enhancement. Further reliance is placed on ***State Bank of India v. V. Ramakrishnan*,** reported as ***(2018) 17 SCC 394; Union of India v. V.F. Ltd.*,** reported as ***(2020) 20 SCC 57;*** and ***Ghanshyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.*,** reported as ***(2021) 9 SCC 657***, to submit that the Legislature is vested with wide latitude to enact retrospective laws in public interest, including fiscal measures intended to protect revenue, ensure administrative continuity, and clarify legislative intent, subject only to constitutional limitations.

47. Learned Senior Counsel further submits that fiscal statutes routinely provide for extended periods of assessment or reassessment, particularly in cases involving non-filing or suppression of material facts. By way of illustration, reference is made to Section 11A of the Central Excise Act, 1944; Section 73 of Chapter V of the Finance Act, 1994 (Service Tax); Section 74 of the CGST/SGST Act, 2017; and Section 147 of the Income Tax Act, 1961. It is submitted that under the KMC Act, Section 179 provides for regular periodic assessment, while the proviso to Section 180(2) specifically enables reassessment proceedings subject to fulfilment of prescribed statutory conditions.

48. The Respondents further submit that the Petitioners' plea of lack of legislative competence is entirely misconceived. The impugned amendment does not seek to override a judicial verdict by a bare declaration, but introduces substantive statutory modifications to correct the very basis on which the earlier provision was invalidated. It rationalises the method of valuation, clarifies the temporal scope of enhancement, and expressly validates earlier assessments, thereby satisfying the settled tests for a curative and validating statute. It is further contended that any individual hardship or practical difficulty faced by taxpayers or landlords in recovering amounts from tenants cannot constitute a ground for invalidating an otherwise constitutionally valid fiscal enactment. Reliance in this regard is placed on ***Shrimate Tarulata Shyam v. Commissioner of Income Tax,*** reported as ***(1977) 3 SCC 305***. The Respondents accordingly submit that the amendment is intra vires, constitutionally valid, and essential for safeguarding the municipal revenue framework.

49. In view of the aforesaid submissions, learned counsel for the Respondent Municipal Corporation prays for dismissal of the writ petition.

Legal Analysis

50. This Court has heard the arguments advanced by the learned Counsel for the parties and examined the records and analysed the Judgments relied upon by the parties.

51. The Petitioner, by way of the present writ petition, assails Section 232B and the proviso to Section 180(2) of the Kolkata Municipal Corporation Act, 1980, contending that they are ultra vires Articles 14, 19, and 300A of the Constitution of India and are therefore void and inoperative under Article 13. It is urged that the impugned provisions effectively dilute the constitutional safeguards recognised in **Sahujain Charitable Society** *(supra)* and expose assessees to limitless retrospective fiscal liability.

52. At the outset, it must be emphasised that the challenge in the present writ petition is not directed against the legislative competence of the State Legislature, but is confined to the constitutional validity and temporal operation of Section 232B and the second proviso to Section 180(2) of the Kolkata Municipal Corporation Act, 1980. The power of the State Legislature to enact laws relating to municipal taxation is traceable to Entry 5 of List II of the Seventh Schedule to the Constitution and is further reinforced by Part IX-A thereof, which accords constitutional status to municipalities as institutions of local self government. As held by the Supreme Court in *State of* ***Rajasthan v. Ashok Khetoliya*** *(supra)*, fiscal legislation enacted within the legislative field enjoys a strong presumption of constitutionality, and judicial interference is warranted only where the

enactment suffers from manifest arbitrariness, lack of legislative competence, or violation of constitutional limitations.

53. It is equally well settled that hardship, inconvenience, or perceived unfairness in the operation of a fiscal statute does not, by itself, constitute a valid ground for striking it down, ***Shrimate Tarulata Shyam*** *(supra).* Courts must, therefore, exercise circumspection and restraint, and confine judicial scrutiny to determining whether the impugned provisions transgress constitutional boundaries.

54. As discussed hereinbefore, the Kolkata Municipal Corporation (Amendment) Act, 2006, which came into force on 01.05.2007, substituted the erstwhile ARV system with the UAA regime and, in the process, repealed the ARV based provisions governing valuation. However, owing to the absence of requisite preparatory and infrastructural arrangements necessary for the immediate operationalisation of the UAA Scheme, its implementation could not be effectuated forthwith. To address this transitional difficulty, the Legislature introduced Section 174(3) with effect from 01.04.2008, providing that annual valuation would continue to be governed by the pre 2006 ARV framework until publication of the Scheme under Section 174(1). Thereafter, by the Amendment Act of 2011, Section 232A was enacted to clarify that certain pre 2006 provisions would continue to remain operative until final publication of the UAA Scheme. Ultimately, the UAA Scheme was notified and brought into force on 01.04.2017, with the result that the ARV system continued to govern assessments up to 30.03.2017.

55. It is in this statutory and historical backdrop, and with a view to clarifying and validating the legal framework governing assessments relating to

periods preceding the commencement of the UAA regime, that the Legislature enacted the Kolkata Municipal Corporation (Amendment) Act, 2022. By this Amendment, notified on 31.05.2023 and brought into effect from 09.06.2023, Section 232B and the second proviso to Section 180(2) were introduced.

Whether Section 232 B of the Kolkata Municipal Corporation Act, 1980 is unconstitutional

56. Section 232B, as inserted by the Kolkata Municipal Corporation (Amendment) Act, 2022, reads as follows:

> *"Notwithstanding anything contained in this Act, the provisions of sub-sections (1), (2), (3), (8) and (9) of section 171, sub-section (1) of section 174 and sections 175, 179, 180, 182A, 185 which were in force immediately prior to the commencement of the Kolkata Municipal Corporation (Amendment) Act, 2006 and sub-section (3) of section 174 shall continue to be enforceable in respect of any action as to be taken for the purpose of assessment of annual valuation and levying of property tax or any step relating thereto for any period prior to publication or enforcement of the Scheme under sub-section (1) of section 174 read with clause (a) of sub-section (2) of section 179 of this Act as amended by the Kolkata Municipal Corporation (Amendment) Act, 2006."*

57. The legislative object underlying Section 232B is to remove doubts arising from the repeal of the ARV based provisions by the Amendment Act of 2006 and to preserve continuity in the assessment framework governing periods preceding the enforcement of the UAA Scheme. The provision is intended to ensure that actions relating to assessment of annual valuation and levy of property tax for such earlier periods are not rendered invalid merely on account of the statutory transition.

58. Learned Senior Counsel for the Petitioner contends that Section 232B revives the unamended Section 179(2)(d) and thereby resurrects unbounded retrospective powers earlier curtailed by the Division Bench in ***Sahujain Charitable Society*** (supra), rendering the provision unconstitutional. The Respondent Corporation, on the other hand, submits that Section 232B is clarificatory in nature and is intended only to address transitional ambiguities.

59. The submission of the learned Counsel for the Petitioner, though attractive, proceeds on the assumption that Section 232B effects a wholesale revival of repealed provisions in their entirety. This Court is unable to accept that construction. It is well settled that a saving or validating provision does not, by itself, revive repealed provisions unless such revival is expressly provided or necessarily implied. Section 232B neither re-enacts the second proviso to Section 179(2)(d), nor employs language indicative of a legislative intent to resurrect a repealed provision as an independent source of substantive power. Rather, it preserves the continuity of proceedings relatable to pre UAA periods so that such proceedings are not rendered otiose by the change in valuation regime.

60. Importantly, Section 232B does not confer an unfettered or indefinite power to reopen the past. Its operation is confined to enabling completion of proceedings relatable to pre UAA periods, subject to the substantive and procedural safeguards contained in the Act and the constitutional limitations governing fiscal legislation. The apprehension of unlimited retrospectivity, therefore, does not arise. The provision neither nullifies **Sahujain Charitable Society** *(supra)* nor seeks to legislatively overrule it in the manner proscribed by ***Shri Prithvi Cotton Mills Ltd.*** (supra) or

S.R. Bhagwat (supra). The Legislature has not declared the judgment ineffective, but has enacted a distinct transitional mechanism operating in a different statutory context.

61. The Kolkata Municipal Corporation (Amendment) Act, 2022 was notified on 31.05.2023 and brought into effect from 09.06.2023. There is nothing to indicate that the Legislature intended the substitution of Section 179(2)(d) by the said Amendment Act to operate retrospectively. Consequently, the substituted provision applies prospectively with effect from 09.06.2023.

62. For the period prior to 09.06.2023, Section 232B operated only to preserve the applicability of the statutory provisions governing annual valuation as they stood at the relevant time. The provision did not create a new source of power, nor did it enlarge the scope of revision beyond what was permissible under Section 179(2)(d) as it then stood. Accordingly, during the interregnum period, revisions of annual valuation were governed by Section 179(2)(d) in its unamended form, subject to the limitations imposed by the Division Bench in ***Sahujain Charitable Society*** (supra). The extended six years period introduced by the Amendment Act of 2022 operates prospectively from 09.06.2023.

63. Viewed thus, Section 232B is in the nature of a transitional and saving provision. It does not independently confer or enlarge the power of assessment, nor does it create new liabilities. Its operation is confined to preserving continuity in the statutory framework governing pre-UAA assessments. So construed, Section 232B does not transgress Articles 14, 19, or 300A of the Constitution of India.

Whether Section 180(2) of the Kolkata Municipal Corporation Act, 1980 is unconstitutional

64. The next issue that arises for consideration is whether the proviso to Section 180(2) of the Kolkata Municipal Corporation Act, 1980 is unconstitutional. The proviso was inserted into the Act pursuant to a notification dated 31.05.2023, and was brought into force through a subsequent notification dated 08.06.2023, with effect from 09.06.2023. The proviso reads as follows:

> *"Provided that such revision of annual valuation of any land or building shall ordinarily be made with in six years from the date of occurrence of any of the above circumstances, but such period shall not apply where the owner or the person liable to pay property tax fails to submit return under Section 182 or suppresses the occurrences of any such circumstances."*

65. The proviso to Section 180(2) lays down that, as a general rule, any revision of annual valuation must be undertaken within six years from the date on which any of the specified events triggering such revision occur. This six year limitation, however, does not apply where the owner or the person liable to pay property tax either fails to submit the statutory return under Section 182 or suppresses the occurrence of any such event. In those situations, the Kolkata Municipal Corporation is not constrained by the six year period and may proceed to revise the annual valuation without being bound by the ordinary limitation.

66. The proviso was brought into force only with effect from 09.06.2023 by the notification dated 08.06.2023, and nothing in its language, either expressly or by necessary implication, indicates any legislative intent to give it retrospective effect or to reopen concluded assessments. It simply

prescribes a normative time frame for future revisions and carves out an exception in cases of nondisclosure or suppression by the assessee. Applying the settled presumption articulated in *Vatika Township Pvt. Ltd.(supra)*, fiscal provisions affecting substantive rights must be construed prospectively unless the legislature clearly provides otherwise. In the absence of clear statutory language mandating retrospectivity, the settled principle applies that fiscal and substantive provisions are presumed to operate prospectively. Accordingly, the proviso must be construed as operative only from 09.06.2023 onwards and as having no application to assessments or valuation periods preceding its commencement.

67. The Petitioners' argument that the use of the expression "ordinarily" renders the provision vague and unguided cannot be accepted. The proviso does not leave the matter to uncanalised discretion. The exception to the six year norm is clearly circumscribed by objectively verifiable conditions, namely non-filing of statutory returns or suppression of relevant events. Such classification between compliant and non compliant assessees bears a rational nexus to the object of ensuring accurate valuation and cannot be characterised as arbitrary under Article 14. The decisions in ***Santosh Kumar Shivgonda Patil*** *(supra)* and ***Patil Raghav Natha*** (supra), which caution against unguided discretion, are distinguishable, as the proviso here provides intelligible standards for its application.

68. The principal objection of the learned Senior Counsel for the Petitioner to this proviso is that the filing of a return was never mandatory under the ARV regime. Even under the UAA regime, although Section 182 contemplates the filing of a return, no adverse civil consequence was ever

attached to its non filing. It is only through this newly inserted proviso that, for the first time, non filing of the return is treated as a circumstance attracting adverse consequences. According to the Petitioner, treating non filing of a return, hitherto a directory requirement, as "suppression of fact" is manifestly unjust, arbitrary, unreasonable, and wholly disproportionate. The apprehension expressed is that the proviso, in effect, retrospectively converts what was always a directory obligation into a mandatory one, thereby retrospectively subjecting citizens to adverse civil consequences for periods during which the law, as it then stood, imposed no such consequences and did not treat non-filing as a culpable act warranting penal or disabling outcomes.

69. This Court is unable to accept the objection advanced on behalf of the Petitioner. The contention that the proviso retrospectively converts a previously directory requirement into a mandatory obligation, thereby imposing adverse civil consequences for past noncompliance, is misconceived for more than one reason.

70. First, the proviso to Section 180(2) came into force only on 09.06.2023. There is nothing in its language, either express or by necessary implication, that suggests an intention to operate retrospectively or to visit past conduct with new liabilities. It is a settled principle that unless the statute clearly provides otherwise, fiscal and substantive provisions are presumed to be prospective. The proviso merely regulates the *future exercise* of the Corporation's power to revise annual valuations by prescribing a six year time frame and carving out an exception where the assessee fails to file a return or suppresses material events. It does not

reopen closed assessments, nor does it impose any penalty or consequence for past omissions.

71. Second, the argument that nonfiling of returns was previously without consequence does not assist the Petitioner. The proviso does not penalise past nonfiling, it merely states that if, after its commencement, the assessee fails to file a return or suppresses relevant facts, the Corporation shall not be constrained by the six year limitation for revision. The provision, therefore, operates prospectively and only in relation to revisions undertaken after 09.06.2023. The legislative choice to link the availability of the six year limitation to compliance with statutory obligations cannot be characterised as arbitrary, especially when the filing of returns has always been a statutory requirement under Section 182, irrespective of the enforcement rigour in earlier regimes.

72. Third, the classification made by the proviso, between assessees who comply with statutory obligations and those who withhold or suppress material information, is rational, founded on an intelligible differentia, and bears a direct nexus to the objective of ensuring fairness and accuracy in property taxation. A taxpayer who voluntarily furnishes returns stands on a different footing from one who withholds information necessary for determining annual valuation. The Legislature's decision that such suppression should not yield the benefit of a limitation period cannot be said to be manifestly arbitrary or unreasonable.

73. For these reasons, the apprehension of retrospective prejudice or the creation of new liabilities for past conduct is unfounded. The proviso operates purely prospectively and withstands constitutional scrutiny. The proviso does not retrospectively penalise past conduct, it merely regulates

the availability of a limitation benefit in future proceedings undertaken after its commencement. As recognised in several fiscal enactments, such as extended limitation provisions under tax statutes, non disclosure or suppression justifies differential treatment. The proviso therefore does not offend the principles enunciated in *Bakhtawar Trust* **(supra)** or *Hari Singh (supra)*, which deal with retrospective imposition of burdens incapable of compliance at the relevant time.

74. In view of the foregoing, this Court finds that the second proviso to Section 180(2) of the Kolkata Municipal Corporation Act, 1980 is constitutionally valid. The proviso, effective from 09.06.2023, merely prescribes a normative time frame of six year for ordinary revisions of annual valuation, while creating an exception where the assessee fails to file a return or suppresses material facts. There is no indication, express or implied, that the legislature intended the proviso to operate retrospectively or to reopen assessments completed prior to its commencement. Its operation is therefore prospective, and it does not attach adverse consequences for periods when no such statutory obligation existed. Consequently, the objection raised by the Petitioner regarding arbitrariness, unreasonableness, or retrospective enforcement is unsustainable, and the proviso must be upheld as valid and enforceable.

Conclusion

75. Having considered the rival submissions, the statutory amendments, and the governing constitutional principles, this Court is unable to accept the contention that the impugned provisions amount to an impermissible legislative overruling of the decision in ***Sahujain Charitable Society*** (supra). The Legislature has neither reenacted the statutory language that

was previously read down by this Court, nor has it sought to render the said judgment ineffective by a declaratory legislative device. What has been introduced is a distinct statutory framework operating within a different valuation regime, accompanied by transitional and procedural provisions intended to preserve continuity in municipal taxation. It is well settled that such curative or validating legislation is constitutionally permissible where it seeks to remove the basis of an earlier infirmity without directly overruling a judicial pronouncement, as recognised in ***Amarendra Kumar Mohapatra*** *(supra)* and ***Katikara Chintamani Dora*** *(supra)*.

76. Upon a careful consideration of the statutory scheme, the rival submissions, and the principles laid down in the decisions cited by the parties, this Court holds as follows:

(i) Section 232B is a transitional and enabling provision intended to preserve and complete proceedings relating to periods prior to the introduction of the UAA regime. It does not revive repealed provisions as independent sources of power, nor does it confer an unfettered or unlimited authority to reopen past assessments. Its operation does not violate Articles 14 or 300-A of the Constitution.

(ii) The second proviso to Section 180(2), effective from 09.06.2023, operates prospectively. It prescribes a normative six-year period for revision while carving out a clearly defined exception in cases of non-filing of returns or suppression of material facts. The proviso is founded on a rational classification, is neither vague nor arbitrary, and does not retrospectively impose burdens for past conduct.

(iii) The impugned provisions do not amount to an unconstitutional legislative overruling of judicial decisions, nor do they suffer from

manifest arbitrariness or lack of legislative competence. Consequently, the constitutional challenge to Section 232B and the second proviso to Section 180(2) of the Kolkata Municipal Corporation Act, 1980 fails.

77. In view of the above conclusions, the memo dated 08.01.2024 and the thirteen notices dated 04.01.2024 issued in relation to the retrospective revaluation of Premises No. 25, Brabourne Road (Biplabi Trailokya Maharaj Sarani), Kolkata-700001, are also set aside. The Respondents shall, however, be at liberty to initiate fresh proceedings, if necessary, strictly in accordance with law and subject to the interpretation and limitations affirmed in this judgment particularly the clarification w.r.t Section 179 (2)(d) of the Act.

78. With the above directions, the writ petition stands disposed of.

79. All pending applications, if any, stand disposed of.

(Gaurang Kanth, J.)

SAKIL AMED (P.A)

High Court Calcutta