

Vp  
C.A.No. 5203 OF 2000  
ITEM NO. 103

COURT NO. 5

SECTION: IIIA

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 5203 OF 2000@@  
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C.G.E.S. & ANR. . . . . APPELLANT(S)

Versus

CALCUTTA MUNICIPAL CORPORATION & ORS. . . . . RESPONDENT(S)  
(With appln. for permission to place additional documents on record  
and with office report)

WITH  
C.A. No. 5204/2000  
(With appln. for permission to submit additional documents and with  
office report)  
C.A. No.5960/2000  
(With appln. for permission and with prayer for interim relief and  
office report)  
C.A. No. 1572/2001  
(With appln. for exemption from filing c/c of the impugned judgment  
and with office report)  
C.A. No. 2212/2001  
(With appln. for exemption from filing c/c of the impugned judgment  
and with office report)

Date: 11/12/2002 This appeal(s) was/were called on for hearing  
today.

CORAM:  
HON'BLE MR. JUSTICE M.B. SHAH  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)  
in 5203/00 & Mr. P.N. Mishra, Sr. Adv.  
5204/00 Mr. Abhijit Sengupta, Adv.  
Mr. Anand, Adv.  
Mr. D. Bharat Kumar, Adv.  
  
in CA 5204/00 Mr. Ranjit Kumar, Sr. Adv.  
Mr. Rana Mukherjee, Adv.  
Mr. Siddharth Goutam, Adv.  
Mr. Goodwill Indeevar, Adv.  
  
in CA 5960/00 Mr. Bhaskar P. Gupta, Sr. Adv.  
Mr. Rana Mukherjee, Adv.  
Mr. A. Kiran, Adv.  
Ms. Sumita Mukherjee, Adv.  
  
in CA 2212/01 Mr. Rana Mukherjee, Adv.  
Mr. Nirnimesh Dube, Adv.  
Ms. Sonal Tripathi, Adv.  
Ms. Sumita Mukherjee, Adv.  
  
in CA 1572/011 Mr. Mahendra Anand, Sr. Adv.  
Mr. Abhijit Sengupta, Adv.  
Mr. Anand, Adv.  
Mr. D. Bharat Kumar, Adv.

. . . . 2/-



C.G.E.S. & ANR.

..Appellant (s)

Versus

CALCUTTA MUNICIPAL CORPORATION & ORS.

..Respondent(s)

ROUGH SKETCH OF THE MATTERS@@  
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For determination of annual valuation, Section 174 inter@@  
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alia provides that the annual value of any building shall be@@  
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deemed to be the gross annual rent at which such building might  
at the time of assessment be reasonably expected to let from  
year to year.

It is sought to be contended that the result is,  
concerned officer of the Corporation would hypothetically  
determine annual rent of the premises which is expected from  
the market i.e. market rent of the premises.

If this is read alongwith S. 171(2)(c), it would mean  
that consolidated rate would be the percentage of the annual  
value as provided in clauses (a), (b) and (c) which  
specifically provide that where the annual letting value  
exceeds Rs. 18,000/-, forty percent of the annual letting  
value would be the rate for property tax.

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Learned counsel appearing on behalf of Calcutta  
Municipal Corporation states that at every stage Corporation is  
giving notice to the occupier including tenant and sub-tenant  
if liable to pay the consolidated tax.

It is made clear that as contemplated under Section 181  
of the Act Corporation is issuing public notice. Thereafter,  
Corporation is bound to accept a return which may be filed by  
the occupier, tenant or sub-tenant, with regard determination  
of annual value.

It is also made clear with regard to the revision in the  
annual valuation of lands and buildings as contemplated under  
Section 182, the Corporation would accept the return of annual  
letting value from the owner or the person liable to pay the  
consolidated rate for such land or building. This would  
include the tenant or sub-tenant.

We make it clear that Corporation is bound to abide by  
the mandate of S. 178(6) which provides thus:

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178. Municipal Assessment Code-@@  
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(6) The Municipal Commissioner,  
shall upon an application made in this

behalf by an owner, lessee or sub-lessee or occupier of any land or building and

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upon payment of such fees as may be determined by the Corporation by regulations, furnish information to such person regarding the appointment of the consolidated rate of such land or building among the several occupiers within such land or building for the current period or the period immediately preceding:

Provided that nothing in this sub-section shall prevent the Corporation from recovering the dues from any such person.

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This would mean that Municipal Commissioner is required to furnish information regarding the apportionment of the consolidated rate of such building among several occupiers within such building in the current period or the period immediately preceding.

Further, it is clarified that for the transfers as contemplated under Section 183, the owner of the land and building or the occupier-owner and the transferee of the premises would submit return as contemplated under Section 183.

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184 Public notice and inspection@@  
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of assessment list - @@  
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(2) When the assessment list has been prepared the Municipal Commissioner shall give public notice thereof and of the place where the list or a copy thereof may be inspected, and every person claiming to be the owner, lessee, sub-lessee or occupier of any land or building include in the list and any authorised agent of such person shall be at liberty to inspect the list and to take extracts therefrom free of charge.

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Further as provided under Section 184(2), as extracted hereinabove, when the assessment list is prepared the Municipal Commissioner is required to give public notice thereof and all the places where the list or the copy thereof could be

inspected by the owner lessee, sub-lessee or occupier of any building included in the list. Such person would also be entitled to take extracts free of charge.

Sections 184(3) and 184(4) which reads as under shall be complied with by the Municipal Commissioner.

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(3) The Municipal Commissioner shall give public notice of the place, time and date, not less than one month after the preparation of the assesment list as aforesaid, when he will proceed to consider the annual valuations of lands and buildings entered in the assessment list, and in all cases in which any land or building is for the first time assessed, or the annual value of any land or building is increased, he shall also give written notice thereof to the owner or to any lessee, sub-lessee or occupier of such land or building and shall also specify in the notice the place, time and date, not less than one month thereafter, when he will proceed to consider such valuation.

(4) When a revision in the annual valuation of any land or building has been made under sub-section (2) of section 180, the Municipal Commissioner shall cause the respective valuation to be entered in the assessment list and shall give a written notice thereof to the owner or to any lessee, sub-lessee or occupier of such land or building and shall also specify in the notice the place, time and date, not less than one month thereafter, when he will proceed to consider such valuation.

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Similarly the Corporation shall comply with the proviso to S. 185 by giving fresh notice stating the amended valuation. This sub-section (3) and (4) of Section 184 makes it absolutely clear that the Corporation is required to give written notice to the owner or to any owner, lesee and sub-lessee or occupier who is in possession of the premises. Further it is clarified that non-compliance of issuing return notice to the tenant or sub-tenant would not vitiate the assessment order unless it is prejudicially affecting the concerned party including tenant or sub-tenant.

With regard to Section 186 also it is made clear that any objection to the annual value of the building as entered in the assessment list could be made by the owner or by the person liable to pay consolidated rate in written to the Municipal Commissioner before the date fixed in the notice. Under Section 184 or Section 185, person is liable to pay to the occupier from whom the tax is to be recovered including the surcharge. This is on the basis of S. 192.

These observations would have prospective effect. Issuance of notice and apportionment would be prospective except pending proceedings.