

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).8135-8146/2010

TATA MOTORS LTD. (FORMERLY KNOWN  
AS TATA ENGINEERING AND LOCOMOTIVE  
COMPANY LTD.)

APPELLANT(S)

VERSUS

THE PIMPRI CHINCHWAD MUNICIPAL CORPORATION  
FORMED UNDER THE BOMBAY PROVINCIAL  
MUNICIPAL CORPORATION

RESPONDENT(S)

WITH

C.A. Nos. 8147-8152/2010

O R D E R

Being aggrieved by the judgment of the Bombay High Court in W.P. No.4136/1992 which was filed by the respondent-Pimpri Chinchwad Municipal Corporation (hereinafter referred to as the "Municipal Corporation", for the sake of convenience) against the appellant(s) herein, these civil appeals have been filed.

The brief facts of the cases are that the appellant-Company has its factory located within the municipal limits of the respondent-Corporation consisting of, *inter alia*, sheds buildings, residential flats, etc. According to the appellant(s), the premises consist of open yards and other facilities and amenities required for its factory wherein

automobiles are being manufactured. When the question of levying of property taxes arose in relation to the year 1981-1987, which is the year in question, under the provisions of the Bombay Provincial Corporation Act, 1949, the same was calculated by fixing the annual letting value of the property within the municipal limits. It appears that there was a revision of the annual letting value and also the method to be followed for assessing the rateable value. In other words, it is stated that rateable value was assessed by applying 8 % as the cost of construction of the property.

Being aggrieved by the said methodology adopted by the Municipal Corporation, the appellant(s) herein filed an appeal being Municipal Appeal No.11/1987 before the Principal Judge, Small Causes Court, Pune. Before the said Court, the version of the Municipal Corporation was taken into consideration in the form of a written statement and Municipal Appeal No.11/1987 was allowed on consideration of the evidence let in by both sides. The letting value fixed by the respondent-Corporation at Rs.74,74,525/- was set aside and the letting value was fixed at Rs.52,22,720/- and the rateable value was determined at Rs.47,00,448/-. The respondent-Corporation was directed to assess the said rateable value and a direction was issued to refund the excess tax recovered from the appellant(s) herein, by its judgment dated 24.09.1987.

Being aggrieved by the said judgment the respondent-Corporation filed C.A. No.271/1988 before the learned Additional District Judge, Pune. The said appeal was however, dismissed by the judgment dated 10.03.1992.

Consequently, the respondent-Corporation filed, *inter alia*, Writ Petition No.4136/1992 before the Bombay High Court. By the impugned judgment dated 11.08.2009, the High Court has set aside the judgment of the Additional District Judge as well as that of the Small Causes Court and has allowed the writ petition filed by the respondent. Consequently, the determination made by the Small Causes Court and affirmed by the District Judge, has been set aside.

Being aggrieved by the judgment of the High Court, the assesee(s) has preferred this appeal.

We have heard the learned counsel for the appellant(s) and learned counsel for the respondent-Corporation and perused the material on record.

During the course of submissions, our attention was drawn to the relevant provisions of the Municipal Corporation Act and the Rules made thereunder and also the resolution passed by the Municipal Corporation on 03.07.1981, relied upon by the respondent - Municipal Corporation, which is the bone of contention between the parties herein. At this stage itself, it may be stated that as per Resolution No.490, the Municipal

Corporation, while following the principles to be adopted in determining the rateable value based on the expected rent in case of property occupied by the landlords for industries and factories and commercial buildings, was to treat a sum of 8% amount spent on total cost of building construction as the expected annual rent. This was in the context of Rule 7 of the said Rules read with Section 129 of the Municipal Corporation Act.

Learned Senior Counsel Sri Shekhar Naphade appearing for the appellant(s) contended that the fixation of 8% of the cost of construction on a flat rate was arbitrary and therefore, the Small Causes Court as well as the District Judge were right in fixing it at 5% insofar as so far the subject properties are concerned, which are in an industrial area outside the city of Pimpri, Pune, and without having any facility and amenities as such, provided by the Municipal Corporation and the same in fact being provided by the appellant(s) themselves.

It was next contended that while setting aside the judgment of the Small Causes Court as affirmed by the learned District Judge, no reasons whatsoever have been assigned by the High Court. In this regard, our attention was drawn to the various paragraphs of the impugned judgment and particularly paragraph 13 of the impugned judgment wherein the High Court

has expressed its opinion but has not given any reasons for holding that the Courts below had decided the issues on a wrong premise and based on surmises. It was contended by learned senior counsel that ample material by way of evidence was let in by the appellant(s) herein before the Small Causes Court. Instead of considering the evidence on record, the High Court has simply stated that "there is no material on record to indicate why the rate levy of 8% of the construction cost, as the annual letting value was incorrect". It was submitted that the approach of the High Court was totally erroneous and in a cryptic way, the judgment of the Small Causes Court as affirmed by the learned District Judge, has been set aside. Consequently, the benefit of the said judgments has been deprived to the appellant(s) herein.

It was also submitted that during the pendency of the matter before the High Court, by way of a consensus, 6.5% of the cost of construction was made the basis for payment of property tax, whereas, the Small Causes Court had determined it at only 5%. It was submitted as an alternative argument that these appeals could be disposed of by holding that for the years under consideration, 6.5% could be made the basis as the amount spent on total cost of building construction and accordingly, a quietus could be given to these appeals.

Per contra, the learned counsel Sri V.N. Raghupathy

appearing for the respondent-Municipal Corporation drew our attention to the communication issued by the Municipal Corporation to the appellant(s) herein and the reason as to why the 8% of the cost of construction was applied to determine the rateable value of the property in question. That the basis of such calculation was the resolution of the Corporation dated 03.07.1991 (resolution No.490). He contended that there can never be substitution of the resolution of the Municipal Corporation, by a court and that the same is not in accordance with law and therefore, the High Court rightly set aside the judgment of the Small Causes Court determining the rateable value at 5% as affirmed by the learned District Judge in appeal. That the High Court had rightly held that the Courts below were not right in determining the rateable value at 5% by ignoring what was determined by the Municipal Corporation at 8%. He contended that there is no merit in these appeals and therefore, the same may be dismissed.

We have considered the rival submissions of the learned senior counsel for the appellant(s) and the learned counsel for the respondent-Corporation in light of the material on record and particularly the impugned judgment of the High Court. On perusal of the impugned judgment of the High Court, we find that the real consideration of the case is in Paragraph 13 of the impugned judgment wherein the Court has

noted that there was no material on record to indicate that the rate of levy at 8% of the construction cost, as the annual letting value, was incorrect. In other words, the consideration of the evidence on record, let in by the parties before the Small Causes Court has not been made as such to hold so. The High Court has also stated that the rateable value had to be determined in accordance with Section 7 of the Rules contained in Chapter 8 of Schedule D of the Municipal Corporation Act and that the Municipal Corporation had taken the construction value at a lower amount than the value reported to the corporation by the company and that was the basis of calculating the annual letting value and the rateable value. While holding so, we find that the High Court has not taken into consideration the evidence which was let in by the respective parties as such and also the issues which had arisen between the parties. In the circumstances, we find it just and proper to set aside the impugned judgment of the High Court and remand the matter to the High Court for reconsideration of the writ petition filed by the respondent-Corporation and to dispose of the same in accordance with law and by a speaking order, after giving reasons.

All contentions on both sides are left open to be advanced before the High Court.

Pending disposal of writ petition(s) by the High Court

the interim order granted by this Court in these appeals on 17.09.2010, which reads as under, shall continue:

*"Leave granted.*

*Pending hearing and final disposal of the appeals, the assessee will continue to pay the taxes calculated at the multiplier/rate of six and half per cent, as agreed upon in the interim arrangement dated 16<sup>th</sup> December, 2000. As far as balance is concerned, an undertaking will be filed in this Court by the appellant herein through a responsible officer of the Company that, in the event it's losing in matter, the appellant will pay the balance differential amount with interest, as may be fixed by this Court at the final hearing of the matter."*

It shall be complied with by the appellant(s) herein until disposal of the Writ Petition.

The appeals are allowed and disposed of in the aforesaid terms.

No costs.

Pending application(s), if any, shall stand disposed of.

.....J.  
( B.V. NAGARATHNA )

.....J.  
( UJJAL BHUYAN )

NEW DELHI;  
AUGUST 3, 2023

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SCIVIL APPEAL NOS.8135-8146/2010TATA MOTORS LTD.  
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Respondent(s)

WITH

C.A. Nos. 8147-8152/2010 (IX)

Date : 03-08-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA  
HON'BLE MR. JUSTICE UJJAL BHUYANFor Appellant(s) Mr. Shekhar Naphade, Sr. Adv.  
Ms. Nandini Gore, Adv.  
Mr. Jatin Mongia, Adv.  
Ms. Tahira Karanjawala, Adv.  
Ms. Sonia Nigam, Adv.  
Mr. Arjun Sharma, Adv.  
Mr. Varun Tyagi, Adv.  
Mr. Akarsh Sharma, Adv.  
Ms. Aishwarya Dash, Adv.  
Dr. Prashant Pratap, Adv.  
Ms. Farah Hashmi, Adv.  
M/S. Karanjawala & Co., AORFor Respondent(s) Mr. V. N. Raghupathy, AOR  
Mr. Mahendra Pal Gupta, Adv.UPON hearing the counsel the Court made the following  
O R D E RThe appeals are allowed and disposed of in terms of  
signed order which is placed on the file.

Pending application(s), if any, shall stand disposed of.

(RADHA SHARMA)  
COURT MASTER (SH)(MALEKAR NAGARAJ)  
COURT MASTER (NSH)