



W.P.No.18534 of 2022 etc. and batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.09.2022 and 01.12.2022

Pronounced on: 23.12.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

WP.Nos.18534, 19392, 19914, 20371, 20551, 20634, 20747, 20758, 20957, 21029, 21151, 21169, 21172, 21173, 21175, 21449, 21757, 21776, 21805, 21810, 21973, 21979, 21977, 22146, 22189, 22221, 22225, 22227, 22234, 22240, 22294, 22595, 22710, 22735, 23291, 23374, 23444, 23612, 23914, 23919, 23922, 23925, 24127, 24159, 24161, 24163, 24296, 24297, 24301, 24362, 24367, 24368, 24454, 24460, 24462, 24869, 23365, 25244, 25331, 25482, 25564, 25567, 25565, 25603, 25718, 25722, 25818, 25888, 25889, 25890, 25894, 26056 & 25897 of 2022

WP.Nos.26134, 26173, 26179, 26183, 26187, 26190, 26174, 26180, 26184, 26188, 26176, 26182, 26186, 26189, 26193, 26198, 26228, 26230, 26235, 26237, 26244, 26232, 26236, 26238, 26242, 26279, 26357, 26484, 26559, 26577, 26621, 26622, 26686, 26736, 26742, 26786, 26790, 26798, 26800, 26791, 26794, 26799, 26796, 27014, 27183, 27184, 27213, 27252, 27256, 27258, 27336, 27337, 27341, 27431, 27939, 27985, 27989, 27992, 28037, 28101, 28377, 28380, 28474, 28654, 28660, 28663, 28662, 28666, 28670, 28842, 28959, 29059, 29085, 29196, 29204, 29247, 29442, 29470, 29478, 29485, 29483, 29488, 29490, 29495, 29497, 29501, 29489, 29493, 29499, 29502, 29503, 29507, 29494, 29500, 29504, 29506, 29508, 29509, 29896, 29942, 29946, 29947, 29951, 29954, 29996, 30078, 30083, 30091, 30097, 30105, 30106, 30115, 30118, 30288, 30290, 30295, 30300, 30303, 30383, 30405, 30423, 30446, 30448, 30455, 30574, 30612, 30616, 30854, 30863, 31154, 31177, 31188, 31190, 31219, 31221, 31224, 31225, 31251, 31288, 31411, 31414, 31430, 31435, 31560, 31713, 31732, 31744, 31774, 31882, 31886, 31977, 31982, 32087, 32208 & 32211 of 2022

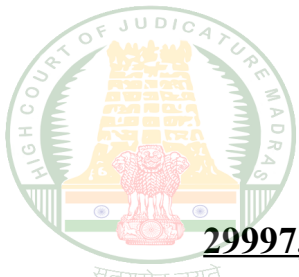
and



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WMP.Nos.17875, 17876, 18691, 18693, 19216, 19217, 19561, 19560, 19679, 19957, 19759, 19761, 19835, 19840, 19966, 19967, 20041, 20152, 20170, 20173, 20174, 20175, 20447, 20449, 20773, 20800, 20802, 20803, 20830, 20831, 20823, 20825, 20997, 21001, 20999, 21146, 21202, 21205, 21251, 21249, 21250, 21252, 21253, 21255, 21256, 21258, 21259, 21261, 21262, 21260, 21263, 21324, 21326, 21641, 21642, 21733, 21734, 21760, 21763, 22243, 22245, 22391, 22325, 22576, 22918, 22921, 22926, 22927, 22931, 22932, 22933, 22934, 23097, 23098, 23133, 23135, 23137, 23284, 23285, 23286, 23288, 23289, 23290, 23360, 23361, 23363, 23364, 23365, 23366, 23408, 23409, 23412, 23413, 23415, 23417, 23809, 19472, 19469, 19470, 22316, 24194, 24196, 24308, 24482, 24483, 24547, 24549, 24555, 24557, 24550, 24553, 24605, 24606, 24773, 24778 of 2022 24883, 24884 24885, 24965, 24967, 24966, 24968, 24969, 24970, 24974, 24975, 24979, 25133 & 24981 of 2022

WMP.Nos.25213, 25270, 25273, 25279, 25282, 25285, 25271, 25274, 25280, 25283, 25272, 25277, 25281, 25284, 25287, 25289, 25312, 25313, 25315, 25318, 25326, 25314, 25317, 25319, 25322, 25356, 25428, 25550, 25618, 25619, 25634, 25635, 25668, 25669, 25670, 25671, 25672, 25673, 25743, 25747, 25789, 25797, 25798, 25838, 25842, 25850, 25853, 25846, 25849, 25852, 25851, 26232, 26234, 26385, 26389, 26412, 26414, 26415, 26448, 26449, 26451, 26452, 26454, 26455, 26522, 26524, 26526, 26527, 26533, 26534, 26626, 26629, 27230, 27280, 27281, 27282, 27326, 27327, 27383, 27687, 27683, 27783, 27784, 27785, 27936, 27937, 27941, 27943, 27945, 27946, 27944, 27947, 27950, 27952, 27954, 27955, 28134, 28135, 28246, 28376, 28343, 28344, 28368, 28369, 28494, 28495, 28496, 28498, 28499, 28500, 28544, 28815, 28816, 28778, 28780, 28825, 28826, 28838, 28839, 28833, 28837, 28841, 28843, 28846, 28848, 28852, 28856, 28860, 28862, 28865, 28868, 28845, 28847, 28851, 28853, 28858, 28861, 28866, 28867, 28870, 28872, 28878, 28879, 28854, 28855, 28863, 28864, 28871, 28873, 28875, 28877, 28880, 28881, 28882, 28883, 29289, 29291, 29342, 29343, 29345, 29346, 29338, 29339, 29351, 29352, 29357, 29358, 29410, 29496, 29497, 29502, 29503, 29516, 29517, 29520, 29521, 29531, 29532, 29534, 29536, 29548, 29550, 29554, 29555, 29725, 29726, 29731, 29732, 29734, 29735, 29740, 29741, 29744, 29745, 29818, 29819, 29835, 29836, 29855, 29856, 29877, 29878, 29879, 29880, 29883, 29884, 29888, 29890, 29891,



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29997, 29998, 30052, 30053, 30054, 30055, 30262, 30263, 30270, 30273, 30587, 30588, 30604, 30615, 30617, 30620, 30621, 30653, 30654, 30655, 30656, 30651, 30652, 30658, 30659, 30691, 30692, 30724, 30726, 30841, 30847, 30843, 30846, 30878, 30879, 30884, 30885, 31016, 31017, 31156, 31157, 31180, 31181, 31189, 31190, 31212, 31213, 31324, 31326, 31331, 31332, 31415, 31416, 31420, 31422, 31514, 31515, 31622 & 31623 of 2022

WP.No.18534 of 2022:

K.Balasubramaniam

... Petitioner

Vs

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai – 600 003.

2. The Secretary,
Municipal Administration and Water
Supply Department,
Fort St. George Building,
Chennai – 600 009.

3. The Zonal Officer,
Zone IX, Ward No.118,
Nungambakkam,
Greater Chennai Corporation,
Chennai – 600 034.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records starting from the Council resolution No.63/2022 dated 30.05.2022 passed by the Council of the Greater Chennai Corporation and the consequential proceedings of the 1st respondent dated 28.06.2022 issuing Form



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No.1 calling it as property tax General Revision Notice 2022-23, Ref.No.I/1/22-23/948253 and quash the entire proceedings, being illegal and ultravires to the provisions of Section 100 of the Chennai City Municipal Corporation Act, 1919.

(Prayer amended vide order dated 29.08.2022 in WMP No.19469 of 2022)

W.P.No.23612 of 2022:

The Chennai Hotel Association

Represented by its President,

Mr.M.Ravi

.... Petitioner

Vs.

1. The State of Tamil Nadu,

Represented by its Secretary,

Municipal Administration and Water Supply (MA IV)

Department,

Fort St. George, Chennai – 600 009.

2. The Commissioner,

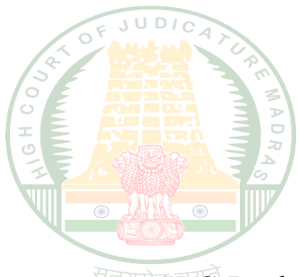
Corporation of Chennai,

Rippon Buildings, Chennai – 600 003.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records leading to the impugned G.O.Ms.No.53 dated 30.03.2022 and the Council Resolution No.63 of 2022 dated 30.05.2022 issued by the 1st respondent and quash the same.

WP.No.32087 of 2022:



K.S.Prakash
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W.P.No.18534 of 2022 etc. and batch

... Petitioner

Vs

1.The Principal Secretary to Government,
Municipal Administration
& Water Supply Department,
The Secretariat, Chennai-600 009.

2.The Commissioner,
Coimbatore Municipal Corporation,
Big Street, Coimbatore – 641 001.

3.The Assistant Commissioner,
Coimbatore Corporation (Central Zone),
Ossur Road, Coimbatore – 641 018.

... Respondents

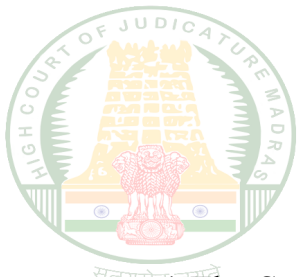
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records and quash the G.O.Ms.No.53 dated 30.03.2022 Municipal Administration and Water Supply Department is unlawful and unconstitutional and direct the 2nd and 3rd respondents to determine the revision of tax in accordance with law.

WP.No.29494 of 2022:

M/s.Hanudev Info Park Pvt. Ltd.,
Represented by its Authorised Signatory
Mrs.Shobana R.Ravi
Director

... Petitioner

Vs



W.P.No.18534 of 2022 etc. and batch

1. The Secretary to Government,
Municipal Administration
& Water Supply Department,
The Secretariat, Chennai-600 009.

2. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.

3. The Assistant Revenue Officer,
East Zone, Coimbatore City Municipal Corporation,
Coimbatore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the impugned G.O.Ms.No.53 Municipal Administration and Water Supply (M.A.IV) Department dated 30.03.2022 issued by the first respondent and impugned Notice No.1, Property Tax General Revision 2022-23, Property Tax General Revision Notice 2022-23, vide Notice No.GR-2022SPL/162/422891, dated 08.07.2022 issued by the 2nd respondent, received on 17.10.2022 and quash the same as ultra vires and unconstitutional beyond the legislative competence.

WP.Nos.	For Petitioners	For Respondents
WP.No.18534 of 2022	Mr.T.V.Ramanujan Senior Counsel For Ms.R.Ramya	Ms.Vaitheeswari Standing Counsel for R1 and R3 and Mr.P.S.Raman, Senior Counsel Assisted by Mrs.C.Sangamithirai, Special Government



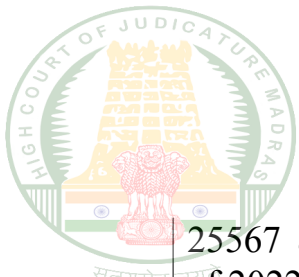
W.P.No.18534 of 2022 etc. and batch

WP.Nos.19392 of 2022	Mr.S.Sundaresan	Pleader for R2 Mr.P.S.Raman, Senior Counsel Assisted by Mrs.C.Sangamithirai, Special Government Pleader for R1 and Mr.J.Ravindran, Additional Advocate General assisted by Mr.E.C.Ramesh, Standing Counsel for R2 & R3
WP.No.19914 of 2022	Mr.C.Jagadish	Mr.P.S.Raman, Senior Counsel assisted by Mrs.C.Sangamithirai, Special Government Pleader for R1 and Mr.J.Ravindran, Additional Advocate General assisted by Ms.S.Vaitheeswari, Standing Counsel for R2 & R3
WP.Nos.20371, 20551 of 2022	Mr.T.V.Lakshmanan	Mr.P.S.Raman, Senior Counsel Assisted by Mrs.C.Sangamithirai, Special Government Pleader for R1 and Mr.J.Ravindran, Additional Advocate General assisted by Ms.S.Vaitheeswari,



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		Standing Counsel for R2
WP.No.20634 of 2022	Mr.R.Gopinath For M/s.Mcgan Law Firm	Mr.J.Ravindran, Additional Advocate General assisted by Mr.E.C.Ramesh, Standing Counsel for R1 & R2 and Mr.P.S.Raman, Senior Counsel assisted by Mrs.C.Sangamithirai, Special Government Pleader for R3
WP.Nos.20747, 20758 & 21151 of 2022	Mr.R.Mohan	Mr.P.S.Raman, Senior Counsel assisted by Mrs.C.Sangamithirai, Special Government Pleader for R1 and
WP.No.21449 of 2022	Mr. M.Bharath	Mr.J.Ravindran, Additional Advocate General
WP.No.21757 of 2022	Mr.K.M.Vijayan for K.M.Vijayan Associates	assisted by Mr.E.C.Ramesh, Standing Counsel for R2 & R3
WP.Nos.21973, 21979 & 21977 of 2022	Mr.AR.Ramanathan For Mr.R.SandeepBagmar	
WP.No.22146 of 2022	Mr.S.Sundaresan	
WP.No.22189 of 2022	Ms.S.Hemalatha	
WP.Nos.22221, 22225, 22227, 22234, 22240, 23291, 25564,	Mr.Vijayan Subramanian	



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25567 & 25565
of 2022

WP.Nos.22710,
24127, 25888,
25889, 25890,
25894 & 25897
of 2022

Mr.N.Premkumar

WP.No.24869
of 2022

Ms.R.T.Shyamala

WP.No.20957
of 2022

Mr.M.Aravind
Subramaniam

Mr.P.S.Raman, Senior
Counsel
assisted by
Mrs.C.Sangamithirai,
Special Government
Pleader for R1 and
Mr.J.Ravindran, Additional
Advocate General
assisted by Mr.E.C.Ramesh,
Standing Counsel for R2 &
R3

WP.No.21029
of 2022

Mr.P.Vasudevan

Mr.P.S.Raman, Senior
Counsel
assisted by
Mrs.C.Sangamithirai,
Special Government
Pleader for R1 and
Mr.J.Ravindran, Additional
Advocate General
assisted by Mr.E.C.Ramesh,
Standing Counsel for R2 in
W.P.Nos.21029 and 23612
of 2022

WP.No.23365
of 2022

Mr.J.Ashok

Ms.S.Vaitheeswari
Standing Counsel for R2 in
W.P.No.23365 of 2022

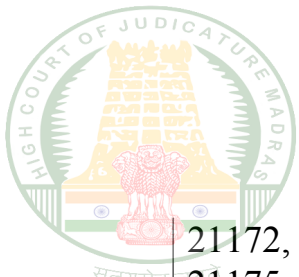
WP.No.23612
of 2022

Mr.Vijayan
Subramanian

WP.Nos.21169,

Mr.C.D.Johnson

Mr.J.Ravindran,



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21172, 21173 &
21175 of 2022

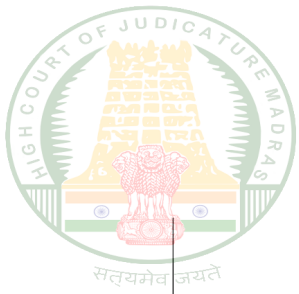
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21172, 21173 & 21175 of 2022		Additional Advocate General assisted by Mr.E.C.Ramesh, Standing Counsel for R1 & R2 and Mr.P.S.Raman, Senior Counsel Assisted by Mrs.C.Sangamithirai, Special Government Pleader for R3
WP.No.21776 of 2022	Mr.P.Vijendran	Mr.P.S.Raman, Senior Counsel assisted by Mrs.C.Sangamithirai, Special Government Pleader for R1, R3 & R4 and Mr.J.Ravindran, Additional Advocate General assisted by Mr.E.C.Ramesh, Standing Counsel for R2 & R5
WP.Nos.21805 & 21810 of 2022	Mr.G.Peranban	Mr.P.S.Raman, Senior Counsel assisted by Mrs.C.Sangamithirai, Special Government Pleader for R1, R3 & R4 and Mr.J.Ravindran, Additional Advocate General assisted by Mr.E.C.Ramesh,



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		Standing Counsel for R2
WP.No.22294 of 2022	Mr.L.V.Srinivasan (Party-in-Person)	Mr.J.Ravindran, Additional Advocate General
WP.Nos.24296, 24297 & 24301 of 2022	Mr.T.Gowthaman	assisted by Mr.E.C.Ramesh, Standing Counsel for R1 and Mr.P.S.Raman, Senior Counsel assisted by Mrs.C.Sangamithirai, Special Government Pleader for R2
WP.No.22595 of 2022	Mr.S.P.Sudalaiyandi	Mr.J.Ravindran, Additional Advocate General
WP.Nos.23374 & 23444 of 2022	Mr.J.Ashok	assisted by Mr.E.C.Ramesh, Standing Counsel for Respondents
WP.Nos.24159, 24161 & 24163 of 2022	Mr.P.Satheesh Kumar	
WP.Nos.24362, 24367 & 24368 of 2022	Mr.T.Gowthaman	
WP.No.22735 of 2022	Mr.Hari Radhakrishnan	Mr.P.S.Raman, Senior Counsel assisted by
WP.No.25331 of 2022	Mr.A.Abdul Rahman	Mrs.C.Sangamithirai, Special Government Pleader for R1 and Mr.J.Ravindran, Additional Advocate General assisted by Ms.Aswini



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		Devi, Standing Counsel for R2 & R3
WP.Nos.23914, 23919, 23922 & 23925 of 2022	Mr.G.Muthukumar	Mr.P.S.Raman, Senior Counsel assisted by Mrs.C.Sangamithirai, Special Government Pleader for R2 and Mr.J.Ravindran, Additional Advocate General
WP.Nos.24454, 24460 & 24462 of 2022	Mr.T.Gowthaman	assisted by Mr.E.C.Ramesh, Standing Counsel for R1 & R3
WP.No.25244 of 2022	Mr.Vinod Paul Tyagaraj David	Mr.P.S.Raman, Senior Counsel assisted by Mrs.C.Sangamithirai, Special Government Pleader for R1 & R2 and Mr.J.Ravindran, Additional Advocate General
WP.No.25482 of 2022	Mr.A.Abdul Rahman For Nathan and Associates	assisted by Ms.Aswini Devi, Standing Counsel for R3 & R4
		Mr.P.S.Raman, Senior Counsel assisted by Mrs.C.Sangamithirai, Special Government Pleader for R1 and Mr.J.Ravindran, Additional Advocate General
		assisted by Ms.Aswini Devi, Standing Counsel for R2



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WP.No.25603 of 2022	Mr.VikramVeerassamy	& R3 Mr.P.S.Raman, Senior Counsel assisted by Mrs.C.Sangamithirai, Special Government Pleader for R1 and Mr.J.Ravindran, Additional Advocate General assisted by Mr.E.C.Ramesh, Standing Counsel for R2 to R4
WP.Nos.25718 & 25722 of 2022	Mr.K.M.Vijayan, Senior Counsel For K.M.Vijayan Associates	Mr.P.S.Raman, Senior Counsel assisted by Mrs.C.Sangamithirai, Special Government Pleader for R1 and Mr.J.Ravindran, Additional Advocate General assisted by Mr.E.C.Ramesh, Standing Counsel for R2 & R3 and Dr.N.Paul Sunder Singh, Standing Counsel for R4
WP.No.26056 of 2022	Mr.P.M.N.Bhagavath Krishnan	Ms.Aswni Devi K.
WP.No.25818 of 2022	Mr.T.V.Ramanujan, Senior Counsel For Ms.R.Ramya	Mr.J.Ravindran, Additional Advocate General assisted by Ms.K.Aswni Devi, Standing Counsel for Respondents
WP.No.26134	Mr.K.M.Vijayan, Senior	Mr.P.S.Raman, Senior



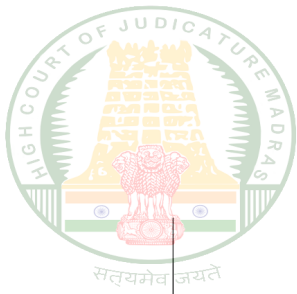
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of 2022

	Counsel For Ms.R.T.Syamala	Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 & R3)
WP.Nos.26173, 26179, 26183, 26187 & 26190 of 2022	Mr.Dwarakesh For Mr.Pavithran .N	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2)
WP.Nos.26174, 26180, 26184 & 26188 of 2022	Mr.SandeepBagmar For Ms.Kamakshi Jaishankar Radha	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government

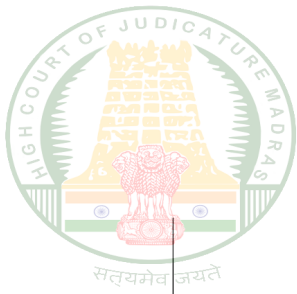


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		<p>Pleader</p> <p>Mr.J.Ravindran, Additional Advocate General</p> <p>Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2)</p>
<p>WP.Nos.26176, 26182, 26186, 26189, 26193, 26198 & 26279 of 2022</p>	<p>Mr.Dwarakesh For Mr.R.SandeepBagmar</p>	<p>Mr.P.S.Raman, Senior Counsel</p> <p>For Mr.K.Surendran, (for R1)</p> <p>Additional Government Pleader</p> <p>Mr.J.Ravindran, Additional Advocate General</p> <p>Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2)</p>
<p>WP.Nos.26228, 26230, 26235, 26237, 26244, 26232, 26236, 26238 & 26242 of 2022</p>	<p>Mr.SandeepBagmar For Mr.Dwarakesh Prabhakaran</p>	<p>Mr.P.S.Raman, Senior Counsel</p> <p>For Mr.K.Surendran, (for R1)</p> <p>Additional Government Pleader</p> <p>Mr.J.Ravindran, Additional Advocate General</p>

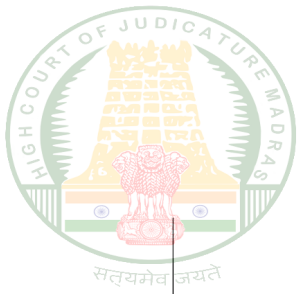


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		Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2)
WP.No.26484 of 2022	Dr.P.Vasudevan	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 & R3)
WP.Nos.26559, 26577, 29942, 29946, 29947, 29951 & 29954 of 2022	Mr.T.V.Lakshmanan	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, Additional Government Pleader (for R1) Mr.J.Ravindran, Additional Advocate General Assisted by Ms.K.Aswini Devi, Standing Counsel (for R2)
WP.Nos.26621 & 26622 of 2022	Mr.R.Parthasarathy	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran,

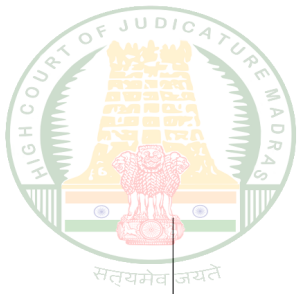


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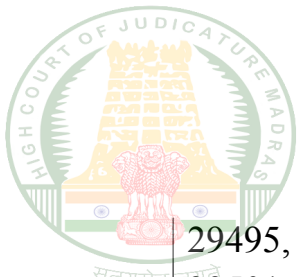
		Additional Government Pleader (for R1) Mr.J.Ravindran, Additional Advocate General Assisted by Ms.K.Aswini Devi, Standing Counsel (for R2 & R3)
WP.No.26686 of 2022	Mr.S.R.Raghunathan	Mr.J.Ravindran, Additional Advocate General Assisted by Ms.K.Aswini Devi, Standing Counsel
WP.Nos.30446, 30448 & 30455 of 2022	Ms.B.Ramya	Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel
WP.Nos.30423, 30612, 30616, 29442, 29470, 29478, 29485, 30078, 30083, 30091, 30097, 30105, 30106, 30115, 30118, 30288, 30290, 30295, 30300 & 30303 of 2022	Mr.G.Vijay Anand	Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel
WP.Nos.30574 & 28842 of 2022	Mr.G.Vijay Anand	Mr.J.Ravindran, Additional Advocate General



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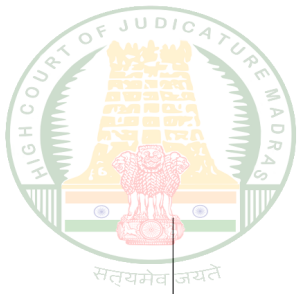
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		Assisted by Ms.K.Aswini Devi, Standing Counsel
WP.Nos.30854 & 30863 of 2022	Mr.Vijayan Subramanian	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, Additional Government Pleader (for R1) Mr.J.Ravindran, Additional Advocate General Assisted by Ms.K.Aswini Devi, Standing Counsel (for R2 & R3)
WP.Nos.31154, 28474, 31732 & 32087 of 2022	Mr.B.Nedunchezhiyan	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 & R3)
WP.Nos.29489, 29493, 29499, 29502, 29503, 29507, 29483, 29488, 29490,	Mr.P.H.Arvind Pandian, Senior Counsel For Mr.VikramVeerassamy .B	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government



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29495, 29497, 29501, 29494, 29500, 29504, 29506, 29508 & 29509 of 2022		Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.N.Velmurugan, Standing Counsel (for R2 & R3)
WP.No.29247 of 2022	Mr.C.Khathiravan	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 to R5)
WP.Nos.29196 & 29204 of 2022	Mr.K.M.Vijayan, Senior Counsel For Mr.Vijayan Subramanian	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General

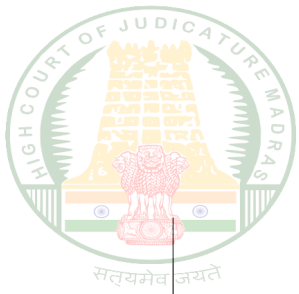


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		Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 & R3)
WP.No.29085 of 2022	Mr.S.Rajmakesh	Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel
WP.No.29896 of 2022	Mr.Ganesh	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, Additional Government Pleader (for R1) Mr.J.Ravindran, Additional Advocate General Assisted by Ms.K.Aswini Devi, Standing Counsel (for R2 & R3)
WP.No.29996 of 2022	Mr.R.N.Amarnath	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by



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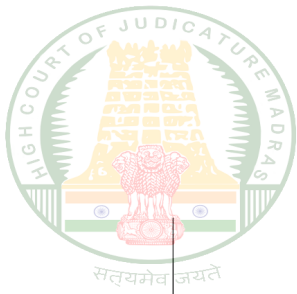
W.P.No.18534 of 2022 etc. and batch

		Mr.E.C.Ramesh, Standing Counsel (for R2 & R3)
WP.No.26736 of 2022	Mr.T.C.Gopalakrishnan	Mr.J.Ravindran, Additional Advocate General Assisted by Ms.K.Aswini Devi, Standing Counsel
WP.No.26742 of 2022	M/s.Nathan and Associates	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, Additional Government Pleader (for R1) Mr.J.Ravindran, Additional Advocate General Assisted by Ms.K.Aswini Devi, Standing Counsel (for R2 & R3)
WP.Nos.26786, 26790, 26798, 26800, 26791, 26794, 26796 & 26799 of 2022	Mr.S.Sundaresan	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2



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WP.No.27014 of 2022	Mr.S.SithiraiAnandam	& R3) Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 & R3)
WP.Nos.27183 & 27184 of 2022	Ms.Kamakshi Jaishankar Radha	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2)
WP.No.27213 of 2022	Mr.AR.Karthik Lakshmanan	Mr.K.Surendran, (for R1) Additional Government Pleader



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		Mr.E.C.Ramesh, Standing Counsel (for R2 & R3)
WP.Nos.27252, 27256, 27258, 27336, 27337 & 27341 of 2022	Mr.Vijayan Subramanian	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 & R3)
WP.No.27431 of 2022	Mr.M.Prem Kumar	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, Additional Government Pleader (for R1) Mr.J.Ravindran, Additional Advocate General Assisted by Ms.K.Aswini Devi, Standing Counsel (for R2 & R3)
WP.Nos.27939, 31560, 31435, 31430 & 31411	Mr.B.Nedunchezhiyan	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for

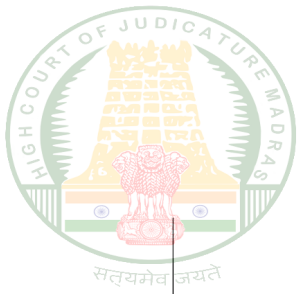


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		R1) Additional Government Pleader Mr.S.Silambanan, Additional Advocate General Assisted by Mr.N.Umapathy, Standing Counsel (for R2 & R3)
WP.Nos.27985, 27989 & 27992 of 2022	Mr.G.V.Sridharan	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 & R3)
WP.No.28037 of 2022	Mr.Vinod Paul Tyagaraj David	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran,

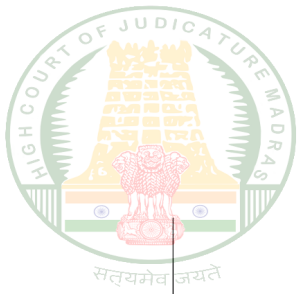


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W.P.No.18534 of 2022 etc. and batch

		Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 to R6)
WP.No.28101 of 2022	Mr.N.Kannan	Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel
WP.Nos.28654, 28660, 28663, 28662, 28666, 28670, 31188 & 31190 of 2022	Mr.Vijayan Subramanian	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 to R4)
WP.Nos.28959 & 30383 of 2022	Mr.T.V.Lakshmanan	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader

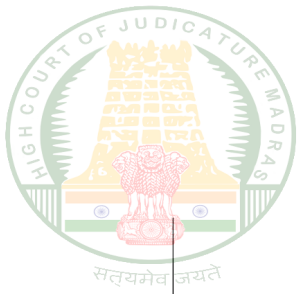


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		Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2)
WP.No.29059 of 2022	Mr.M.Liagat Ali	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 & R3)
WP.No.31744 of 2022	Mr.G.Vijayabalan	Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel
WP.No.31713 of 2022	Mr.V.Anil Kumar	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R2) Additional Government

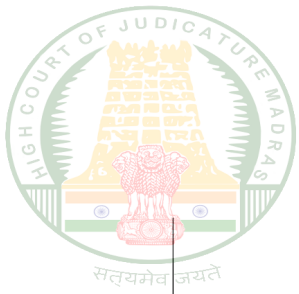


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W.P.No.18534 of 2022 etc. and batch

		<p>Pleader</p> <p>Mr.J.Ravindran, Additional Advocate General</p> <p>Assisted by Mr.E.C.Ramesh, Standing Counsel (for R1 & R3)</p>
WP.Nos.31886 & 31882 of 2022	Mr.G.Vijay Anand	<p>Mr.P.S.Raman, Senior Counsel</p> <p>For Mr.K.Surendran, (for R1)</p> <p>Additional Government Pleader</p> <p>Mr.J.Ravindran, Additional Advocate General</p> <p>Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 to R4)</p>
WP.Nos.31219, 31221, 31224 & 31225 of 2022	Mr.M.Venkadesh Kumar	<p>Mr.P.S.Raman, Senior Counsel</p> <p>For Mr.K.Surendran, (for R2)</p> <p>Additional Government Pleader</p> <p>Mr.J.Ravindran, Additional Advocate General</p>

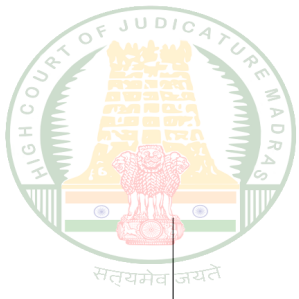


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W.P.No.18534 of 2022 etc. and batch

		Assisted by Ms.Aswini Devi, Standing Counsel (for R1 & R3)
WP.No.31177 of 2022	Mr.S.Rajmakesh	Mr.S.Silambanan, Additional Advocate General Assisted by Mr.N.Umapathy, Standing Counsel
WP.No.31414 of 2022	Mr.Madhan Babu	Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel
WP.No.31288 of 2022	Mr.KandhanDuraismi	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.S.Silambanan, Additional Advocate General Assisted by Mr.N.Umapathy, Standing Counsel (for R2 & R3)
WP.No.31251 of 2022	Mr.Kavyanathan For M/s.Nathan and Associates	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, Additional Government



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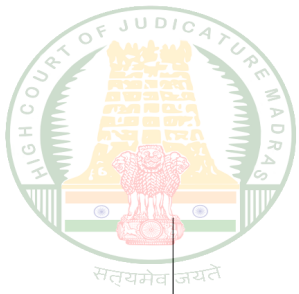
W.P.No.18534 of 2022 etc. and batch

		<p>Pleader (for R1)</p> <p>Mr.J.Ravindran, Additional Advocate General</p> <p>Assisted by Ms.K.Aswini Devi, Standing Counsel (for R2 & R3)</p>
WP.No.31774 of 2022	Ms.Roshini .R	<p>Mr.P.S.Raman, Senior Counsel</p> <p>For Mr.K.Surendran, Additional Government Pleader (for R1)</p> <p>Mr.J.Ravindran, Additional Advocate General</p> <p>Assisted by Ms.K.Aswini Devi, Standing Counsel (for R2 & R3)</p>
WP.No.31977 of 2022	Mr.M.Sunil Kumar	<p>Mr.J.Ravindran, Additional Advocate General</p> <p>Assisted by Ms.K.Aswini Devi, Standing Counsel</p>
WP.No.31982 of 2022	Mr.S.Elamurugan	<p>Mr.L.Maurya, Standing Counsel (for R1)</p> <p>Mr.P.S.Raman, Senior Counsel</p> <p>For Mr.K.Surendran, Additional Government Pleader (for R2 & R3)</p>



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WP.Nos.32208 & 32211 of 2022	Mr.A.J.MohamedKassi m	Mr.E.C.Ramesh, Standing Counsel
WP.No.30405 of 2022	Mr.P.H.Arvind Pandian, Senior Counsel For Mr.VikramVeerassamy	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2)
WP.No.26357 of 2022	Mr.K.M.Vijayan, Senior Counsel For M/s.K.M.Vijayan Associates	Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 & R3) Dr.Paul Sundar Singh,



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WP.Nos.28377 & 28380 of 2022	Mr.T.Arun Kallakuru	Rao	Standing Counsel (for R4) Mr.P.S.Raman, Senior Counsel For Mr.K.Surendran, (for R1) Additional Government Pleader Mr.J.Ravindran, Additional Advocate General Assisted by Mr.E.C.Ramesh, Standing Counsel (for R2 & R3)
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COMMON ORDER

A welfare State has necessarily to balance augmenting of its revenues so as to provide for sources of funds for welfare measures and other expenses of the State on the one hand, and mitigating the hardship of taxes as far as possible to its citizens, on the other.

2. The official website of the Income Tax Department refers to the perfect balance achieved by the emperor Manu in this regard stating that '*As the calf and the bee take their food little by little, even so must the king draw from his realm moderate, annual taxes*'. One would assume that this would



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constitute the method of exaction in all revenue matters, whether Central or

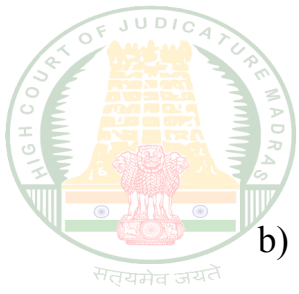
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State. That said, it is also an admitted position that the taxes imposed on property assume a lions' share of the resources of the State and thus, the power of the State, nay, the necessity to do so, albeit in a legal, fair and transparent matter, is beyond question.

3. The challenge in the present matters is of three kinds:

a) Challenge to G.O.Ms.No.53 Municipal Administration and Water Supply (MA.IV) Department, dated 30.03.2022 (in short 'G.O.'/'impugned G.O.') and consequential Council Resolution (in short 'CR') No.63 of 2022 dated 30.05.2022 issued by the Greater Chennai Corporation, revising the property tax in Chennai and Coimbatore. The resolution passed by the Coimbatore Corporation in CR.No.94 dated 26.05.2022 has not been challenged in any of the Writ Petitions. Both the resolutions are collectively referred to as 'CR' for ease of reference.

Though the sweep of the G.O. encompasses the entirety of the State of Tamil Nadu, only the Commissioner and other authorities of the Greater Chennai and Coimbatore Municipal Corporations are arrayed as respondents. In some of the Writ Petitions, the State has also been arrayed as a respondent.



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b) Property tax General Revision Notices for period 2022-23, i.e., from

WEB 01.04.2022 onwards, which is the effective date for implementation of the new tax rates.

c) The new tax rates are structured on a slab basis and this has come to be questioned in a few Writ Petitions.

4. By way of this common order, I dispose the Writ Petitions filed challenging enhancement to property tax in terms of the Chennai City Municipal Corporation Act, 1919 (in short '1919 Act') and the Coimbatore City Municipal Corporation Act, 1981 (in short '1981 Act').

5. I first advert to Writ Petitions in set (a) relating to the challenge to impugned G.O. and CR. The move to enhance rates of property tax stood triggered by a need of augmented funds as well as the mandate cast by the 15th Central Finance Commission for availing grants and entry level conditions for receiving funds under various schemes of the Government of India (GOI). The State Government thus constituted a Committee to look into the present rates of property tax, and determine whether they are commensurate with the need of the State and in line with measures taken elsewhere in the Country for levy and collection of property tax.

6. The Committee had made certain recommendations proposing augmenting of rates of the taxes as well as the Basic Street Rates (BSR). There



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was also a proposal for adoption of a slab system. The Committee's report has

been accepted by the State in passing the impugned G.O. The G.O. was gazetted on 11.04.2022 and a Notification issued for implementation of general revision of property tax within the limits of Greater Chennai and Coimbatore Corporations, with effect from the current year, i.e., with effect from the first half of 2022-23.

7. The Notification had been published on 12.04.2022 (Chennai) and 13.04.2022 (Coimbatore) in both English and vernacular newspapers as per Section 98A of the 1919 Act and there was a call for objections, to be addressed to the Principal Secretary/Commissioner, of the Corporations, within 30 days from date of publication of the Notification. The Notification stated that upon expiry of the 30 day period, objections shall be considered and a decision taken by the Council. This was followed by CR No.63 dated 30.05.2022 and CR No.94 dated 26.05.2022 issued by the two Corporations.

8. The Resolution was passed after having taken note of 30 objections that were received from taxpayer base of 13 lakh (approx.) assesseees in Chennai. The number of taxpayers in Coimbatore have not been provided. In almost all the cases, the objections have been answered simply relying upon the impugned G.O. and the Notification that preceded the CR. In fine, the CRs



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provided for revision of the rates as per the basis set out by the Committee,

with effect from the first half of 2022-23.

9. Straight away, I may state that reference to the first half of 2022-23 is not merely erroneous but absurd, seeing as the remittance of property tax for every half year is the 15th of the first month comprised in that half-year, i.e., by 15th of April and by 15th of October, of the year concerned. Seeing as the CRs approving the enhancement of rates were passed only on 30.05.2022 and 26.05.2022, the amendment for the first half year for which the last date for payment had already expired by then, has necessarily to be set aside.

10. Furthermore, increase in tax rates cannot be retrospective as settled by Courts over the years, seeing as any enhancement in tax rates and tax burden would affect adversely, the substantive civil rights of the parties. Thus, even at the threshold, this Court makes it clear that the reference to the first half of 2022-23 in the impugned G.O, Gazette and CRs, is erroneous and illegal.

11. The petitioners challenging the G.O., and CRs advance the following submissions:

- (i) The impugned revision has been triggered solely by the report of the Central Finance Commission constituted in terms of Article 280 of the Constitution of India. The petitioners argue that it is not for the Central Finance Commission to lay a mandate of this nature



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upon the State as such mandate is contrary to the Constitutional scheme and the federal structure thereunder. Seeing as the mandate emanates from the diktat of the Centre, the impugned G.O. and CRs are liable to be quashed on this ground alone.

- (ii) Article 162 provides for the intervention of the State by means of Executive orders, but only in respect of subjects that are devoid of an enactment which controls or regulates that particular subject. In this particular instance, the levy of property tax by the Corporations is governed by specific enactments. Thus the directions under the impugned G.O. constitute unlawful intervention in an otherwise occupied field.
- (iii) The intervention by the State is fatal to the impugned revision, seeing as the respective statutes do not, in any manner, envision a role for the State to play in matters relating to the determination of property tax.
- (iv) The 1919 and 1981 enactments provide for the regulation of all matters relating to the levy, assessment, collection and recovery of property tax as well as a framework of statutory remedies for those aggrieved by the orders/assessments. The Councils of the respective Corporations are the ultimate authorities in whom vests



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all power necessary for the levy of property tax and all matters connected and incidental thereto. The impugned enhancements however, have not emanated from the Council, but at the instance of the State, vide the impugned G.O. This constitutes a usurping of the power of the Council by the State and is an excess of authority in terms of Article 162 of the Constitution of India.

- (v) The provisions of the 1919 and 1981 Acts that touch upon the subject of taxation are Sections 98, 98A, 99 and 100, in the former, and Sections 117, 118, 121 and 122 in the latter. These provisions set out a specific methodology for determination of property tax and the impugned G.O. and CRs, do not take note of this methodology and procedure, thus vitiating the same in full.
- (vi) The statutory duty and responsibility for determination of the tax as well as revision of rates, is cast upon, and vests specifically in, the revenue authorities, i.e., the authorities of the Greater Chennai and Coimbatore Corporations. However, in the present case, the impugned enhancement stands triggered solely by reason of the mandate/recommendation of the Central Finance Commission.
- (vii) Statutorily, the only authority that is entitled to determine all issues relating to property tax, would be the Commissioners of the



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Corporation and their team of officials and the relevant provisions of the 1919 and 1981 Acts set out a clear and categorical methodology for determination of property tax.

- (viii) The procedure set out envisages adequate opportunity to be afforded to the taxpayers by way of a public notice soliciting objections and disposal of the objections in a proper manner. This procedure has not been followed in the present matters and this constitutes a violation of the principles of natural justice that is fatal to the impugned proceedings.
- (ix) G.O.Ms.No.53 of 2022 is dated even prior to the Council Resolution, and Sections 99 and 100 of the 1919 Act that correspond to Sections 121 and 122 of the 1981 Act, provide for a very specific procedure in amending the law/rate of tax to be levied.
- (x) Sections 99(2) and 121(2) vest exclusive power upon the Councils to levy tax at such percentages of the actual value of buildings and lands as may be fixed by the Councils.
- (xi) In the present case, the Councils have merely adopted the basis of enhancement, by way of a diktat from the State, which itself emanates originally from the Central Finance Commission, and



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this runs counter to the express responsibility statutorily cast upon them.

- (xii) Sections 99(3) and 121(3) state that the annual value of any building or land shall be determined by the Commissioners as a basis for the purpose of assessing property tax and Sections 100(2) and 122(3) clarify that the annual value of lands and buildings shall be deemed to be the gross annual rent that they may be reasonably expected to fetch from month to month or year to year, less certain statutory deductions.
- (xiii) The Annual Rental Value (ARV) is thus the basis of levy of property tax and evidently, such ARV shall be based only upon the computational methodology set out under the Tamil Nadu Buildings (Lease and Rent Control) Act 1960 (in short 'Rent Control Act')
- (xiv) The impugned G.O. and CRs refer, in vague terms, to Basic Street Rate (in short 'BSR'), which is a parameter entirely unknown to the tax paying public of Tamil Nadu.
- (xv) BSR, as a concept, was never the methodology for levy of tax, as in the past the assessment of property tax was consistently done on



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a case to case basis depending upon the returns filed by individual property owners.

(xvi) Apart from being contrary to the methodology set out under the Statute, adoption of a general value, such as a uniform and standardised street rate for the purposes of assessment, would be incorrect insofar as all houses in the street would be grouped as one for the purposes of the rate and individual differences would be entirely lost sight of.

(xvii) Therefore, as the basis upon which the street rates have been arrived at is a mystery, such an unknown and alien methodology cannot be simply thrust upon the citizens without any statutory backing or scientific basis.

(xviii) There was, in 1997 a move to amend the provisions of Sections 99 and 100 of the Act to provide for a standardised methodology for the levy of tax on buildings and lands within the city. Those amendments did not see the light of day and have been abandoned. It is only in those amendments that the concept of a Basic rate had been introduced/contemplated. Having proposed an amendment to make uniform/standard rates as the basis of taxation and not having pursued the same, rather and in fact, actively dropping the



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proposal, the respondents cannot now, by way of G.O., Notification and CRs apply an alien basis of taxation, hitherto unknown to the public.

- (xix) The impugned CRs provide for the increase in slabs as follows (i) upto 600 sq ft (ii) 601 to 1200 sq ft (iii) 1201 to 1800 sq ft (iv) above 1801 sq ft. The rate applicable is incremental, qua each slab. Some of the petitioners have challenged the introduction of the slab system arguing that there is no basis for the increased factorial at every slab. They also argue that it is discriminatory, particularly to owners of larger properties.

12. The petitioners rely upon the following decisions in support of their submissions:

(i) *The Commissioner of Income-tax, Mysore, Travancore-Cochin and Coorg, Bangalore v. The Indo Mercantile Bank Ltd.* (AIR 1959 SC 713)

(ii) *Guntur Municipal Council v. Guntur Town Rate Payers' Association, etc.* (AIR 1971 SC 353)

(iii) *B.R.Dalavai v. Government of Tamil Nadu* (91 LW 110)

(iv) *R.Govindarajan v. The Madurai Corporation* (AIR 1984 MADRAS 90)

(v) *Municipal Corporation of Delhi and Another v. Mehraons Jewellers Private Limited* [(2015) 9 SCC 719]

(vi) *New Delhi Municipal Council and Others v. Association of Concerned Citizens of New Delhi and Others* [(2019) 15 SCC 303]



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(vii) *S.Arunachalam and others v. State of Tamil Nadu Rep. by its Commissioner and Secretary, Local Administration and Water Supply Department, Madras-9 and others* [1997 (1) CTC 129]

(viii) *Union of India and Others v. Mohit Minerals Pvt. Ltd.* (Civil Appeal Nos.1390 of 2022 and batch dated 19.05.2022)

(ix) *Lokmanya Mills Barsi Ltd. v. Barsi Borough Municipality, Barsi* [(1962) 1 SCR 306]

(x) *Patel Gordhandas Hargovindas and Others v. Municipal Commissioner, Ahmedabad and Another* [(1964) 2 SCR 608]

(xi) *The Mehta Multispeciality Hospitals India Pvt. Ltd. v. The Commissioner, Corporation of Chennai, Rippon Building, Chennai-600 003 and others* (W.P.Nos.35304 of 2019 and batch dated 03.03.2021)

(xii) *Commissioner v. Griha Yajamanula Samkhya and Others* [(2001) 5 SCC 651]

(xiii) *Raza Buland Sugar Co. Ltd. v. Municipal Board, Rampur* (Civil Appeal No.23 of 1964, dated 30.10.1964)

(xiv) *Bangalore Woollen, Cotton and Silk Mills Co. Ltd., Bangalore v. Corporation of the City of Bangalore* (Civil Appeals Nos.448 and 449 of 1957, dated 05.04.1961)

(xv) *The Berar Swadeshi Vanaspathi and Ors. v. The Municipal Committee, Shegaon and Ors.* (Civil Appeal No.234 of 1959, dated 28.03.1961)

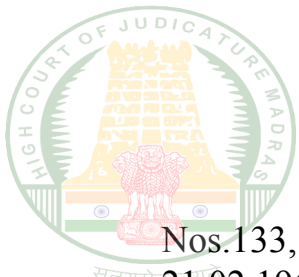
(xvi) *Municipal Board, Sitapur v. Prayag Narain Saigal and Ors.* (Civil Appeal Nos.847-848 of 1966, dated 16.01.1969)

(xvii) *City Municipal Council, Mangalore and Ors. v. Frederick Pais and Ors.* (Civil Appeal Nos.1302 to 1906 of 1968, dated 13.10.1969)

(xviii) *Kunnathat Thathunni Moopil Nair v. The State of Kerala and Ors.* (Petitions Nos.13 to 24, 42 and 46 to 54 of 1958, dated 09.12.1960)

(xix) *Bharat Kala Bhandar Ltd. v. Municipal Committee, Dhamangaon* (Civil Appeals Nos.600 and 679 of 1964, dated 26.03.1965)

(xx) *New Manek Chowk Spinning and Weaving Mills Co. Ltd. and Ors. V. Municipal Corporation of The City of Ahmedabad and Ors.* (Writ Petitions



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Nos.133, 156 & 157, 159-171, 178, 184, 206-210 and 234 of 1966, dated 21.02.1967)

(xxi) *The State of Kerala v. Haji K.HajiK.Kutty Naha and Ors.* (Civil Appeals Nos.1052 of 1968 and batch, dated 13.08.1968)

(xxii) *Municipal Board, Hapur and Ors. v. Jassa Singh and Ors.* (Civil Appeal No.472 of 1980, dated 04.09.1996)

(xxiii) *Nagar Panchayat, Kurwai and Ors. V. Mahesh Kumar Singhal and Ors.* (Civil Appeal No.7821 of 2013, dated 06.09.2013)

(xxiv) *K.Lakshminarayanan and Ors. v. Union of India (UOI) and Ors.* (Civil Appeal No.11887 of 2018, dated 06.12.2018)

(xxv) *Jacob Puliyl v. Union of India (UOI) and Ors.* (Writ Petition (Civil) No.607 of 2021, dated 02.05.2022)

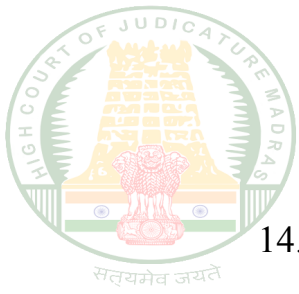
(xxvi) *B.N.Nagarajan and others V. State of Mysore and others* (AIR 1966 SC 1942)

(xxvii) *Dr.P.Rajaji v. The State of Tamil Nadu and others* (2008-4-L.W.564)

(xxviii) *Dindigul Anna District Tax Payers Sangam v. Government of Tamil Nadu and another* (1994-2-L.W.715)

(xxx) *S.Jayanthi and others v. The Pallavaram Municipality and others* (W.P.No.11383 of 2016 dated 01.09.2016)

13. The State commences its submissions with a power point presentation (in short 'PPP') to bring home the importance of the levy of property tax to its treasury, and the objects and reasons behind such levy. The presentation essentially emphasised the necessity for the impugned enhancement based on economic compulsions, inflation over the years and rising needs of the population that needs to be met by the State.



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14. Some academic papers on the relevance and importance of taxes on property to the treasury of a State, as well as the manner in which the taxes are determined, have been circulated. The first one cited is a Guide to Municipal Finance, published by the United Nations.

15. The second is a Handbook for Local Governments entitled 'Municipal Finances', edited by Catherine Farvacque and Mihaly Kopanyi for the World Bank (Publication number 88878) and the last is a booklet on Municipal Finance authored by A.E.Buck in collaboration with Other Staff Members of The National Institute of Public Administration and The New York Bureau of Municipal Research, published by The Macmillan Company in 1926.

16. The literature circulated elaborates upon the need for assessing properties to tax and the methodologies adopted generally in assessing properties. While providing a historical background to the levy of the tax itself is well taken, I bear in mind that the State enactment is itself of 1919 vintage, going even further back than the dates of the publications cited.

17. Some judgements cited by Mr. T.V.Lakshmanan that I elaborate upon in the later part of this order also provide illuminating historical context to the levy of property tax over the Ages. The state enactment has complete clarity on the mode and methodology to be applied in the assessments of properties,



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which is the Annual Rental Value, and intervention is required in respect of the

WEB COPY manner of implementation of the provisions.

18. The respondents submit that there are 200 wards in the Greater Chennai Corporation, including 93 areas annexed to the Greater Chennai Corporation in 2011 as well as those comprising the erstwhile Corporation of Chennai. There has been no revision in the rates of property tax since 1998 in respect of 107 wards of the Greater Chennai Corporation, and since 2008 in regard to 93 wards added later.

19. General revision of property tax was attempted in 01.04.2018 under G.O.No.73, Municipal Administration and water Supply Department, dated 19.07.2018 and G.O.(Ms) No.76, Municipal and water Supply Department dated 26.07.2018. The proposals contained in the aforesaid were abandoned as instead, G.O.(Ms) No.150 dated 19.11.2019 came to be issued providing for the constitution of a Committee to examine the issues related to general revision of property tax in all capital Urban Local Bodies.

20. The committee was constituted under the Chairmanship of the Principal Secretary to Government (Finance Expenditure) and three members, the Commissioner, Greater Chennai Corporation, the Commissioner of Municipal Administration and the Director of Town Panchayats. One of the



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reasons for this unprecedented delay is also, according to the State, the

reluctance it has felt in adding to the burdens of the populace.

21. Had the State been effective and prompt in enhancing the rate of property taxes in regular general revisions over the years, the tax paying public would hardly have felt the pinch of such phased and staggered enhancement. The Committee ascertained the quantum of increase in property tax bearing in mind market indices like Wholesale Price Index, Cost Inflation Index of the Income tax Department and adopted the GDP growth as being a realistic indicator of property valuation over the years.

22. The respondents also make reference to the recommendations of the 15th Central Finance Commission and emphasis laid therein on the mobilization of own revenues by self-governing bodies. Noting that yields from property tax remain historically low, the Commission has recommended notification of floor rates and indicated that progress in collections and improvement in performance in tax collections will be used as yardsticks for grants-in-aid.

23. That apart, the respondents also emphasize that the present increase is a conservative one, that, by no standards, reflects the actual increase in the rentals of properties. To buttress these submissions, the PPP included pie charts, graphs, histograms and tabulations containing comparisons of the rentals for specified properties (full addresses of the properties were given)



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selected at random, as well as the properties owned by the some of the

petitioners before the Court. The PPP has been printed into booklets and supplied to all the learned petitioner counsel as well.

24. The statistics supplied are to illustrate the yawning gap between the actual rentals in certain areas when compared with the rentals, as determined under the present impugned methodology, the former being substantially higher in several instances. Thus, the specific submission is that in standardising the methodology for computation of ARV, taxpayers will stand to gain, as the ARV determined will be far less than the rent realisations, if taken on actual basis.

25. The details of the properties as provided by the respondents, including full addresses and the rental values, are not extracted in this order in the interests of the privacy of the property owners. To be noted that there has been no rebuttal by the petitioners to the aforesaid statistics and area-wise rental values.

26. The State vehemently objects to the petitioner's submissions that Basic Street Rate was never part of property tax assessments in Tamil Nadu. The respondents were asked to place on record material to establish this submission, specifically, that a uniform and standardised rate of tax was the basis of taxation at any point in time, in the past. This is to test the rival submissions that BSR constituted a gross departure from the practice followed



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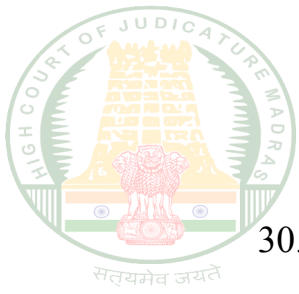
hitherto as the petitioners argue, and the stand of the respondents to the

WEB COPY. contrary.

27. The Court takes cognisance of the position that the manner and methodology followed in property tax assessments over the years is unclear, to state the least. While the statutory provisions provide for the adoption of annual rental value (ARV) with statutory deductions therefrom, there was considerable discussion in the course of the hearing as to how the ARV was being determined over the years.

28. There were differing points of view expressed by the petitioners in this regard, some stating that the basis of assessment were their own returns filed several years ago, and some, who came into the tax net more recently, stating that the ARV had been determined after inspection and a process of assessment and others provided no concrete basis for the manner in which their assessments were being finalised till date.

29. Multiple compilations of documents have been filed by the respondents to persuade the Court that BSR has been part of the methodology and assessment procedure for the last 30 years. A detailed study of the documents filed reveals the following sequence of events, commencing from 1977, till date.



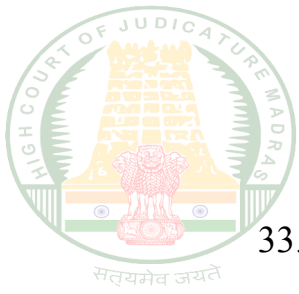
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30. Even prior to 1977, a team of officials headed by the then revenue officer had been deputed to Hyderabad to study the methods of assessment in other States and how best they could be applied to Tamil Nadu. The then Commissioner and Secretary to Government had embarked upon a comparison of the provisions of the property tax enactments in the State of Tamil Nadu, i.e., Madras City Municipal Corporation Act, 1919, Madurai City Municipal Corporation Act, 1971 and District Municipalities Act, 1920, with the analogous enactments in Hyderabad.

31. The basis of taxation in Andhra Pradesh at that point in time was the annual value of buildings and such annual value comprised the gross rental value. The gross annual rent was itself arrived at, based upon the average rent of selected houses in different streets.

32. Within the general yardstick relating to carpet area of basic rate arrived at, adjustments were made based upon various considerations, such as location, type of construction, nature of use, age of buildings and other unique characteristics. This was the formula under consideration of the Andhra Pradesh Government and the Committee concluded that the Hyderabad formula was an acceptable formula that may be adopted in Tamil Nadu as well. Council Resolution bearing No.534/1977 19.06.1977 was passed to aforesaid effect.



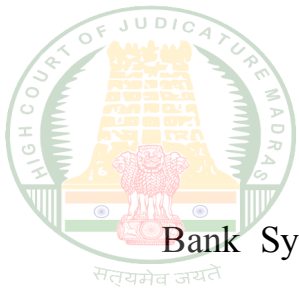
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33. While the details of the Council Resolution are unnecessary insofar

as they go into the specifics of the various parameters to be adopted by the Corporations in determining annual value and gross annual rent, what impresses is that there has been application of mind to various relevant aspects, and an analysis and exchange of information between the States, at least the Southern States, such as Madras and Hyderabad as early as in 1977, to arrive at a method of assessment that would not just straddle, but also balance the interests of the people and the State. This is commendable.

34. The efforts to rationalize property tax assessment continued and G.O.Ms.No.11 dated 04.01.1983 considered a situation that 'rent' may be removed from the ambit of the enactment and that the mode of assessment may be shifted wholesale to a new basis, such as value of land, plinth area, location and usage after dividing the area into various zones and sub-zones. Following this methodology will obviate the necessity for arriving at a annual rental value or fair rent method.

35. After examining the proposal from the Vice Chairman, Madras Metropolitan Development Authority under cover of his letter dated 30.03.1982, the Commissioner, Corporation of Madras was directed to undertake studies in this regard to be carried out by the Operations Research Group (ORG) of the Madras Metropolitan Development Authority under World



Bank Systems for rationalization of property tax assessment. The records

WEB.COM reveal notes written in hand, calling for the report of the ORG and Annexure

VIII of compilation filed by the Greater Chennai Corporation on 21.09.2022

contains a report of the study submitted during September, 1985.

36. Some of the salient features and relevant observations made in the report are extracted below:

Some of the important observations in this regard are:-

1.The ratio of market rent to implicit rent as per ARV varied between 5 to 8 times for residential use. The implicit rent varies between 9 paise to 23 paise, the market rent being in the range of 52 paise and 111 paise.

2.The ratio of market rent to implicit rent varies between 7 to 9 times for commercial use. The implicit rent varies between 16 paise to 33 paise, the market rent being in the range of 151 paise and 225 paise.

The system of tax assessment based on the concept of annual value has not kept pace with rising land values and costs of construction nor with the changing complexities of the urban situation. The tax collections have, therefore, no relation to the phenomenally increased costs of municipal services. The Rent Control Laws and the decisions of the Court applying the Rent Control Laws to the determination of a hypothetical rental value have rendered the whole system irrational and inadequate.

The difficulties created by the Rent Control Acts could be easily removed by the insertion of a non-obstante clause in the legislation authorising the levy. The tax can also be rationalised if annual value is given up as the sole basis for levy.

Built up area of property is by far the most desirable from the point of view of simplicity and avoidance of subjective assessment particularly at the lowest level of administration. Built up area



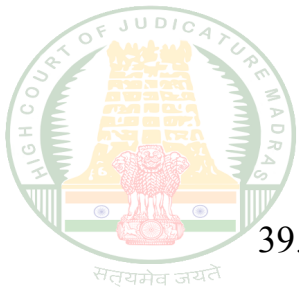
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has, in fact, been recognised as a reasonable base of tax by the Privy Council as early as in the case reported in AIR (1944) FC 71. But built up area cannot, however, be the sole basis after the commencement of the Constitution. In fact, the Kerala Building Tax Act of 1951 did this exactly and was struck down on the ground that the various elements such as the character of the building, the place where it is situated, the cost of its construction and the period for which it will endure have not been taken into account.

.....

37. Thereafter, G.O.Ms.No.1120 dated 23.11.1987 was issued considering an earlier ban imposed against the quinquennial revision of property tax in the Madras and Coimbatore Corporations. Under this Government Order, the ban was removed. In G.O.Ms.No.1178 dated 10.12.1987, Part I-A in the 1919 Act stood substituted in entirety to provide for the method of assessment of property tax.

38. In terms of this procedure, an assessee was to file a return of property tax within a specific time and if such a return was not filed, the Commissioner was entitled to authorize any person not below the rank of Bill Collector to enter upon, make the inspection of the assessable item, prepare the return and pass an order of assessment in compliance with the principles of natural justice. Part V provides for revision of assessment by a constitution of a Taxation Appeals Tribunal for disposing appeals preferred by those aggrieved by assessments.



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39. Annexure XII of the compilation contains minutes of the meeting of the Cabinet held on 26.11.1991. The first item on the agenda was revision of house tax in Municipal Corporations and Item No.1 (b) dealt with house tax revision in Town Panchayats and Panchayats. The minutes, titled as 'strictly confidential' have been perused and reveal that the assessment of property tax was to be done based on returns filed by property owners taking into account plinth area and use of the house, location, type of construction and its use.

40. A threshold was set beyond which the basic annual value was not liable to be fixed. This was for both residential areas as well as industrial and commercial establishments in order to prevent a huge and sudden increase. A ceiling was placed on the increase upto 100% on residential houses, marriage halls and cinema theatres and 150% on hospitals, offices, shops and industries. Those decisions were decided to be implemented for District Municipalities as well.

41. Subsequent proceedings in various R.O.C. numbers reiterated the decision of the Government to continue to re-commence and continue with the quinquennial revision of property tax and the guidelines for determination of annual rental value.

42. With this decision arrived at in 1993, there ought to have been a quinquennial revision every 5 years, i.e., in 1998, 2003, 2008, 2013, 2018 and



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thereafter in 2023. Had this been done, the periodic enhancements could have

taken note of all economic conditions in deciding whether to enhance, or otherwise. However, this has not been done leading to the present situation where the enhancement is after a span of nearly two and a half decades, in one single shot.

43. That apart, the guidelines fixed on 14.05.1993 refer to fixation of basic value in the context of different areas, streets and lanes within demarcated zones. There are other parameters in regard to the specifics of the property itself, such as occupation, nature of the building, the use of the building and others that have also been fixed as being relevant.

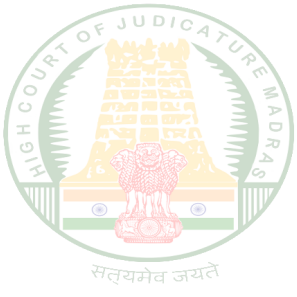
44. Annexure XVIII of the aforesaid guidelines contains a tabulation of various rates arrived at by the revenue Department of the Corporation of Chennai during the period 1993-94 for different areas and streets. This tabulation, running to 11 pages, contains a location code, location name, rate per sq. ft. in paise and land value per ground in lakhs.

45. Proceedings bearing number 10784/1999 dated 02.12.2004 came to be passed referring specifically to BSR and the proceedings read thus:

வ.து.ந.க.எண்.ஜி1/10784/99

ஆணையாளர் அவர்களின் குறிப்பு நாள் 02.12.2004 பொருள் எண் 46

13.04.2005 அன்று நடந்த மன்றத்தின் சாதாரண கூட்டத்தின் நடவடிக்கையின் சுருக்கம்.



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தீர்மான எண்.134/2005

பொருள்:

சொத்துவரி -புதிய கட்டிடங்களுக்கு சொத்துவரி நிர்ணயம்-
வரிவகை வகுப்பது

அரசு கடித எண்.12700/எம்.இ/IV/2000-1, நாள் 25.05.2000ல் சொத்துவரி மதிப்பீடு வெளிப்படையாகவும் வரிமதிப்பீடு செய்யும் அலுவலர்கள் மத்தியில் ஊழல் நடவடிக்கைகள் தவிர்க்கும் பொருட்டும், புதிய கட்டிடங்களுக்கு சொத்துவரி மதிப்பீடு குறித்த வழிமுறைகளை அனைவரும் அறிந்துக்கொள்ளும் வகையில் வெளிப்படையாக வெளியிடுமாறு தெரிவிக்கப்பட்டு உள்ளது.

சென்னை மாநகராட்சியில் கடந்த 1993-94ல் மீண்டும் பொதுசீராய்வு தொடங்கப்பட்டு, பகுதிவாரியாக குடியிருப்புப்பகுதிகள் மற்றும் குடியிருப்பு அல்லாத பகுதிகள் என இரண்டு வகைப்பாட்டில் தனித்தனியாக ஒரு சதுர அடிக்கு அடிப்படை வீதம் (Basic Rate) நிர்ணயம் செய்யப்பட்டது.

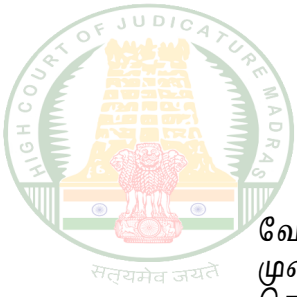
இதைத் தொடர்ந்து 01.10.1998ல் அடுத்த பொது சீராய்வு தொடங்கப்பட்டது. இதில் 1993-94 பொது சீராய்வில் நிர்ணயிக்கப்பட்ட வாடகை மதிப்பில் கீழ்க்கண்ட அடிப்படையில்

- | | |
|-------------------------------------|------------------|
| 1.குடியிருப்பு உரிமையாளர் பகுதிக்கு | அதிகபட்சமாக 25% |
| 2.குடியிருப்பு வாடகைதாரர் | அதிகபட்சமாக 50% |
| 3.குடியிருப்பு அல்லாத (வணிகம்) | |
| உரிமையாளர் பகுதி | அதிகபட்சமாக 90% |
| 4.குடியிருப்பு அல்லாத (வணிகம்) | |
| வாடகைதாரர் பகுதிக்கு | அதிகபட்சமாக 100% |

சொத்துவரி பொது சீராய்வு 01.10.1998 முதல் நடைமுறைப்படுத்தப்பட்டு வருகிறது. ஆனால் 01.10.1998 முதல் புதிய கட்டிடங்களுக்கு 1993-94ல் நிர்ணயிக்கப்பட்ட ஒரு சதுர அடிக்கான அடிப்படை வீதத்தில் (Basic Rate) குடியிருப்பு பகுதிகளுக்கு 50%க்கு பதிலாக 25% உயர்த்தியும், குடியிருப்பு அல்லாத பகுதிகளுக்கு 100%க்கு பதிலாக 50% உயர்த்தியும் வரி நிர்ணயம் செய்யப்பட்டு வருகின்றன.

.....

அரசு சிறப்பு செயலாளர் கடித எண்.13725/மாந1/2001-5, நாள் 01.09.2004ல் 1919ம் ஆண்டு மாநகராட்சி சட்டத்தின் வரிவிதிப்பு விதிகளில் விதி 3(3)ன்படி சொத்துகளுக்கு சொத்துவரி மதிப்பீடு சென்னை மாநகராட்சி மன்றத்தால் பெளியிடப்பட்டுள்ள வழிகாட்டு நெறிமுறைகளின்படி, மாநகராட்சி ஆணையாளரால் மேற்கொள்ளப்பட



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வேண்டும் எனவே, மேற்படி விதிகளின்படி சொத்துவரி மதிப்பீடு முறைகள் குறித்து அரசு ஆலோசனை வழங்க வழிவகை செய்யப்படவில்லை என்று தெரிவிக்கப்பட்டுள்ளது.

இந்த அடிப்படையில் தற்போது ஏற்கனவே, மன்றத்தீர்மான எண்:212/2002, நாள்:28.06.2002ன்படி 01.07.2002 முதல் புதிய கட்டிடங்களுக்கு இந்த மன்றத்தீர்மானத்தில் சுட்டிக்காட்டிய வழிவகைகளின்படி அமலாக்கம் செய்ய வேண்டும்.

அரசு கடித எண்.12700/எம்.இ/2001-1, நாள்:25.05.2000ன்படி புதிய கட்டிடங்களுக்கான சொத்துவரி மதிப்பீடு வெளிப்படையாகவும், எல்லோரும் எளிதாக புரிந்துக்கொள்ளும் வகையில் சொத்துவரி மதிப்பீடு எவ்வாறு மதிப்பிடப்படுகின்றன என்பது குறித்த வழிமுறைகளும், சென்னையில் மாநகராட்சி எல்லைக்குட்பட்ட அத்தனை தெருக்களுக்கும் மண்டலம் வாரியாக, வார்டு வாரியாக குடியிருப்பு பகுதிகள், குடியிருப்பு அல்லாத (வணிக உபயோகம்) பகுதிகளுக்கு தனித்தனியாக ஒரு சதுர அடிக்கான அடிப்படை வீதம் (Basic Rate) அடங்கிய மண்டல வாரிய புத்தகங்கள் (Booklet) அச்சிட்டு கடந்த 27.10.2004 அன்று நடைபெற்ற முன்றாண்டு சாதனைகள் அடங்கிய கையேடு வெளியீடு மற்றும் படக்கண்காட்சி திறப்பு விழாவில் சொத்துவரி மதிப்பீடு செய்யும்முறை மற்றும் தெருவாரியான அடிப்படை வீதம் அடங்கிய புத்தகம் வெளியிடப்பட்டுள்ளது. இது சென்னை மாநகராட்சியின் 300 ஆண்டு கால வரலாற்றில் இதுவரை யாரும் செய்திராத சாதனையாகும். இது சென்னை மாநகராட்சியின் ஒரு முக்கிய மைல் கல்லாகும் என்பது குறிப்பிடத்தக்கது.

வ.து.ந.க.எண்.ஜி1/10784/99

தற்போது சொத்துவரி மதிப்பீடு செய்யும்முறை மற்றும் தெருவாரியான அடிப்படை வீதம் (Basic Rate) அடங்கிய புத்தகம் எல்லா மண்டலங்களிலும், ரிப்பன் கட்டிடத்திலும் ரூ.10/-க்கு விற்பனைக்கு உள்ளன என்பதையும் தகவலுக்கு சமர்ப்பிக்கப்படுகிறது.

எனவே, தற்போது அரசுக்கடித எண்.13725/மாந.1/2001-5, நாள்:01.09.2004ல் தெரிவித்துள்ளபடி,

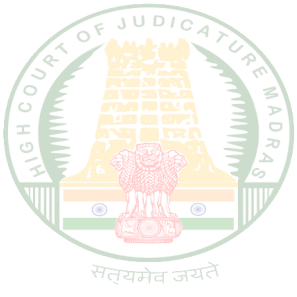
1.மன்றத்தீர்மான எண்.212/2002, நாள் 28.06.2002ன்படி புதிய கட்டிடங்களுக்கு 1993-94ல் நிர்ணயிக்கப்பட்ட அடிப்படை வீதத்தின் மீது

அ)குடியிருப்பு உரிமையாளர் கட்டிட பகுதிக்கு

அதிகபட்சமாக 25%

ஆ)குடியிருப்பு வாடகைதாரர் கட்டிட பகுதிக்கு

அதிகபட்சமாக 50%



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இ)குடியிருப்பு அல்லாத (வணிகம்) உரிமையாளர்

கட்டிட பகுதி

அதிகபட்சமாக 90%

ஈ)குடியிருப்பு அல்லாத (வணிகம்)

வாடகைதாரர் கட்டிட பகுதிக்கு அதிகபட்சமாக 100%

என்ற அடிப்படையில் சீரமைத்து அறிவிப்புகள் வழங்கியதற்கும்,

2. மன்றத்தீர்மானம் 212/2002, நாள் 28.06.2002ன்படி 01.07.2002 முதல் வரிமதிப்பீடு செய்யப்பட்ட புதிய கட்டடங்களுக்கும் 01.10.2004 முதல் (நடப்பு அரையாண்டு முதல்) இனம் 1ல் உள்ளபடி சொத்துவரி மதிப்பீடு செய்து திருத்திய அறிவிப்புகள் வழங்கியதற்கும்,

3. மன்றத்தீர்மான எண்.212/2002, நாள் 28.06.2002ன்படி 01.07.2002 முதல் சொத்துவரி மதிப்பீடு செய்யப்பட்ட புதிய கட்டடங்களுக்கு, 01.07.2002 முதல் 30.09.2004 முடியும் வரையிலான காலத்திற்கு முன்தேதியிட்டு ஏற்கனவே வழங்கிய அறிவிப்புகளை ரத்து செய்து திருத்திய அறிவிப்புகள் வழங்குவதற்கு அனுமதியும்

4.....

46. In 1998-99, the revenue Department has embarked upon the massive project/exercise of compiling the rental rates per street and a tabulation of the rates arrived at qua each street is placed before the Court at page 95 of compilation dated 19.09.2022.

47. A Committee set up for that express purpose had selected two to four houses per street and arrived at the average/rate that would be treated as the base rate for that street. It is that rate that is being applied across the city of Chennai in assessments for the last more than three decades, according to the State.

48. To a pointed question as to whether assessment orders issued thus far had over the years contained any reference to BSR, the State has circulated



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assessment orders passed as early as in 1978, 1979 and 1980 that contain

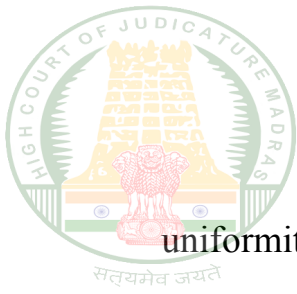
reference to BSR.

49. A consolidated report dated 19.09.2022 has been filed by the Corporation which sets out in extenso the measures taken by the City Corporation from 1977 onwards till 2005 to drive home their submission that BSR has always been an integral part of the methodology of assessment for assessing property tax.

50. The procedure of quinquennial revision was done upto 1977-78. Some Writ Petitions thereafter came to be filed challenging the revision and by order dated 27.10.1977 by a learned single Judge of this Court in W.P.No.604 of 1977, case of *B.R.Dalavai*, the State was directed to suspend quinquennial revision of property tax.

51. Even thereafter, there have been no regular revisions in property tax. The procedure that was put in place in 1992-93 saw some portion of the public file returns of income and it is based upon those returns of income that assessments and demands of property tax are being finalized till date in some cases.

52. In the case of new and recent properties, demands are raised and though all concerned agree that the basis is rental value, there is no clarity from any quarter as to the exact methodology deployed, and whether there was any



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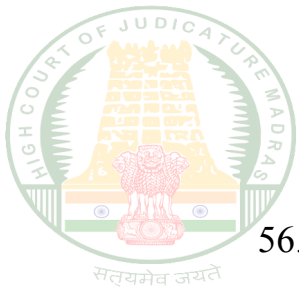
uniformity across the board. It was only in 1992-93 that regularity in revisions

was revived, the intervening hiatus benefitting the citizens of Tamil Nadu, and to the detriment of the State.

53. In light of this submission as above, the State would argue vehemently that there is no merit in the argument of the people that BSR is a new concept, hitherto unknown to property tax assessment in the State. As regards the adoption of BSR itself as an appropriate method, they rely upon two decisions, being (i) *Dindigul Anna District Tax Payers Sangam V. Government of Tamil Nadu* ((1994-2-L.W.715) and (ii) *Raja D.V.Appa Rao Bahadur and others V. The Government of Tamil Nadu* (CDJ 1993 MHC 534). The decisions cited will be presented discussed, in the paragraphs to follow.

54. Before proceeding to answer the objection of the petitioners to the alleged change in basis of taxation as well as the issues that arise in this writ petitions, a word on the technology presently employed by the respondents in matters relating to property tax assessments, would be appropriate.

55. At the initial hearings conducted on 24.08.2022, 29.08.2022 and 01.09.2022, even pending decision in these writ petitions, there were umpteen difficulties expressed by the petitioners through their counsel, in coming to grips with the unfamiliar basis of taxation as well as in navigating the website of the Corporations.

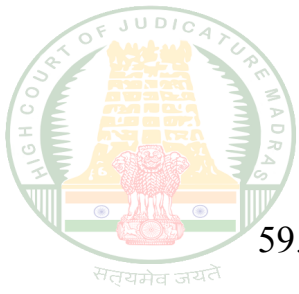


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56. The petitioners number 155 out of a tax base of approximately 13 lakh assessees. This Court was thus of the view that urgent and immediate measures must be taken by the authorities to enable those assessees who had chosen to comply and not challenge the demands, to so comply and remit the amounts. That apart, the grievances expressed by the petitioners was also legitimate.

57. The officials of the Greater Chennai Corporation, who were present at the hearing were directed to ensure that the website was made user-friendly and contained all necessary details to inform the assessees of the basis of assessment. At the hearing conducted on 02.09.2022, the Greater Chennai Corporation was directed to upload on the websites, the compendium of Basic Street Rates arrived at originally, accompanied by the revised factorial, in the interests of transparency and such that the assessees would be aware of the revision in the rates.

58. The officials of the City Corporation have, from time to time, accessed the website of the Chennai Corporation in Court for live demonstrations to update not just the Court but more importantly, all the counsel present, as to the measures taken for upgradation and progress in streamlining of the website of the Greater Chennai Corporation. This is a work in progress and calls for sustained effort and improvement.



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59. As regards the Coimbatore Corporation, the respondents in that batch

of writ petitions concede to the position that their website is rather primitive to put it kindly. Both the structure of the site as well as the content requires urgent attention and updation to make it user-friendly. Since those writ petitions were taken up at a later point in time as the pleadings were completed while the hearing of the Chennai batch was in progress, those respondents were directed to collaborate with their colleagues in the Chennai Corporations to apply the processes used by the latter for updation and upgradation of the websites.

60. The respondents in both batches have assured the Court that measures will be undertaken on a war footing to update and will be sustained in the future as well. These assurances and undertakings are recorded.

61. Coming to the objection of the petitioners to the alleged change in basis of taxation, I have in the preceding paragraphs, narrated the sequence of events from a little before 1977, as presented to the Court till the last revision of property tax made in 1998. The petitioners have been audience to the entirety of the presentations and have also been supplied with all the documents filed by the respondents such as the reports, government orders, assessment orders, council resolutions and tabulations.

62. The Coimbatore Corporation was likewise, directed to produce material substantiating that BSR as a methodology for framing property tax



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assessments, had been applied/followed prior to the impugned proceedings.

WEB COPY Vide compilation dated 30.11.2022 the Coimbatore Corporation has placed some documents for perusal of the Court. The documents only contain a copy of the 2018 Government Order that was later rescinded by the State in 2019 and orders issued in 2022 that do not advance its case. These documents are of no avail to establish prior application of BSR.

63. Learned counsel who appears for the petitioners in W.P.Nos.32087 of 2022 etc. batch has also filed a compilation dated Nil with the following documents:

- i) News Report dated 19.11.2019*
- ii) Circular bearing Na.Ka.No.60639/08/B-3, dated 02.01.2009*
- iii) G.O.(Ms.No.228 dated 13.11.2008*
- iv) Circular bearing Na.Ka.No.34283/2008/B4, dated 10.07.2008*
- v) Circular No.70035/2005/R1 dated 11.03.2009*
- vi) Order dated 04.04.2016 passed in W.P.No.10514 of 2016*
- vii) Proceedings of the Commissioner, Coimbatore Corporation dated 02.06.2008*
- viii) G.O.(Ms.)No.110 dated 23.06.2008*

64. The Coimbatore Corporation has not really established the application of BSR, over time. That said, there has been a great degree of opaqueness in the reach of the Notifications and Government Orders under which this methodology was promulgated at the relevant point in time, and this



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is on account of, in some measure, to the absence of robust methodologies for

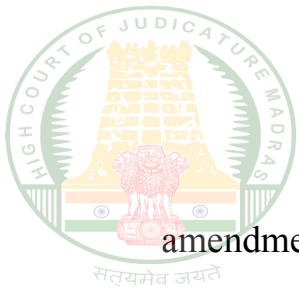
WEB dissemination of information at the relevant point in time.

65. A perusal of the documents presented by the Chennai Corporation presented leaves me in no doubt that the respondents have arrived at BSR as early as in 1998 and applied the same in framing property tax assessments. True, they have not been consistent in the application of this methodology and where returns had been filed even earlier based on ARV computed on actuals on based upon the Rent Control Act, there is every possibility that such assessments continued without revision.

66. As a concept however, and a methodology for computation of taxes on property, it is my conclusion that the respondents have been implementing the same in assessments, albeit not consistently, and it is not a new methodology that is being introduced now under the impugned proceedings.

67. The amendments brought in vide the Tamil Nadu Municipal Laws (Second Amendment Act) 1997 Tamil Nadu Act 65 of 1997 does provide for a scheme of assessments by determination of basic property tax, additional property tax etc. by the Council, subject to minimum and maximum rates as prescribed.

68. The basic rate was to be based upon the carpet area and usage and the additional basic rate to depend upon location and type of construction. The



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amendments were never notified but this, in my considered view, does not

adversely impact my decision/conclusion as to the formulation and application

of BSR as early as in 1998. There is overwhelming material that the respondents have produced to enable me to come to the conclusion as above.

69. I have heard learned senior counsel Mr. T.V.Ramanujan, Mr. K.M.Vijayan and Mr. P.H.Arvind Pandian as well as a slew of learned counsel for the petitioners and Mr. L.V.Srinivasan who appears as party-in-person in W.P.No.22294 of 2022 as well as Mr. P.S.Raman, learned Senior counsel for the learned Government Pleader for the State and Mr. J.Ravindran and Mr. Silambanan learned Additional Advocates General for the learned Panel Counsel for the Greater Chennai and Coimbatore Corporations.

70. As indicated by me in the opening paragraphs of this order, there is no doubt in my mind that the right of the State to impose tax on property is well-founded and it is not the petitioners' case that no such right exists. The submissions made on behalf of the petitioners is as against the procedure followed, or the lack of it, the basis of taxation and the structure of slabs imposed. They would urge that it is only the Rent Control Act and the methodology contained thereunder that must be deployed.

71. The opaque manner in which the property tax assessments were hitherto framed, the cumbersome structure of the website of the Corporations



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and the difficulties in navigation, were well taken. The officials of the Greater

WEB Chennai Corporation were directed to enable the following:

- “a. Property Tax Calculator to be enabled in the website for the public.*
- b. Facilitation arrangements to be made in Zonal Offices to address the queries of assesseees with regard to revision of property tax.*
- c. To submit documents regarding discussions held in GCC regarding implementation of General Revision.*
- d. Evidences for streetwise Monthly Rental Value collected.”*

72. This would, the Court trusts, address the grievances of the petitioners in regard to the difficulties encountered in navigating the website, obtaining the basis of calculation and having the grievances addressed. The respondents are put to strict compliance of their undertaking before this Court and must ensure that future amendments, Notifications and Government Orders as and when they are passed, are updated on the website within 24 hours of such amendment/updation/GO having been issued.

73. All the issues raised and answered below turn on an interpretation of the provisions of Sections 98 to 100 of the Chennai City Municipal Corporation Act, 1919 coming under Part III (Taxation and Finance) and Chapter V (Taxation – Enumeration of taxes), that deal comprehensively with matters concerning tax, in one manner or the other, extracted below. The provisions under the 1981 Act are analogous and hence not extracted.



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“98. Enumeration of taxes and duties.---- *The [council] may levy ---*

- (a) a property tax,*
- (b) a tax on companies,*
- (c) a profession tax,*
- (d) a tax on carriages and animals,*
- (e) a tax on carts,*
- (f) a tax on timber brought into the city,*

[and may, with the previous sanction of the [State Government] [...]] levy,

[h] a duty on certain transfers of property in the shape of an additional stamp duty:

[Provided] that the tax on companies shall only be leviable if it was being levied immediately before the commencement of [the Constitution] and shall only be leviable until provision to the contrary is made by [Parliament by law].

98-A. Powers of control of State Government.---- *(1) Before the council passes any resolution imposing a tax or duty for the first time, it shall direct the commissioner to publish a notice in the [Official Gazette] and in the local newspaper of its intention and fix a reasonable period not being less than one month from the date of publication of such notice in the [Official Gazette] for submission of objections. The council may, after considering the objections, if any, received within the period specified, determine by resolution to levy the tax or duty. Such resolution shall specify the rate at which, the date from which and the period of levy, if any, for which such tax or duty shall be levied.*

(2) when the council shall have determined to levy any tax or duty for the first time or at a new rate, the commissioner shall forthwith publish a notice in the manner laid down in sub-section (1) specifying the date from which, the rate at which and the period of levy, if any, for which such tax or duty shall be levied.

(3) Any resolution abolishing an existing tax or duty or reducing the rate at which any tax or duty is levied shall not be carried into effect without the sanction of the [State



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Government], but such sanction shall not be necessary for a resolution reducing the rate at which property tax is levied:

Provided that such reduction does not contravene the proviso to subsection (2) of section 99.

(4) Where any resolution under this section has taken effect for a particular year, no proposal to alter the rates or the date fixed in such resolution so far as that year is concerned shall be taken into consideration by the council without the sanction of or a direction from the [State Government].

99. Description and class of property tax.--- (1) If the council by a resolution determines that a property tax shall be levied, such tax shall be levied on all buildings and lands within the city save those exempted by under this Act or any other law. The property tax may comprise---

(a) a tax for general purposes;

(b) a drainage tax for the purpose of defraying the expenses connected with the drainage system of the city ;

(c) a lighting tax for the purpose of defraying the expenses connected with the lighting of the city:

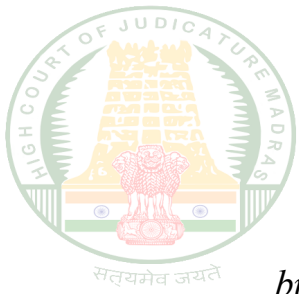
Provided that where the drainage tax is levied the council shall declare what proportion of the tax is levied in respect of drainage works and the proportion so declared shall also be specified in the notice published under sub-section (2) of section 98-A.

(2) Save as otherwise provided in this Act, these taxes shall be levied at such percentages of the annual value of buildings and lands as may be fixed by the council:

Provided that the aggregate of the percentage so fixed shall not, in the case of any land or building, be less than 15 1/2 per cent, or greater than [25] per cent of its annual value.]

(3) For the purpose of assessing the property tax, the annual value of any building or land shall be determined by the commissioner:

[Provided that the annual value of any building or land the tax for which is payable by the commissioner shall be determined by the Mayor.]



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100. Method of assessment of property tax.---- (1) Every building shall be assessed together with its site and other adjacent premises occupied as appurtenances thereto unless the owner of the building is a different person from the owner of such site or premises.

(2) The annual value of lands and buildings shall be deemed to be the gross annual rent at which they may [at the time of assessment] reasonably be expected to let from month to month or from year to year [less a deduction, in the case of buildings, of ten per cent of that portion of such annual rent which is attributable to the buildings alone, a part from their sites and the adjacent lands occupied as an appurtenance thereto] and the said deduction shall be in lieu of all allowance for repairs or on any other account whatever:

Provided that----

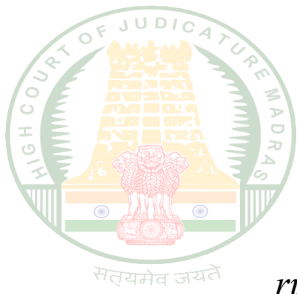
(a) in the case of---

(i) any Government or railway building ; or

(ii) any building of a class not ordinarily let the gross annual rent of which cannot in the opinion of the commissioner be estimated the annual value of the premises shall be deemed to be six percent of the total of the estimated market value of the land at the time of assessment and the estimated cost of erecting the building at such time after deducting for depreciation a reasonable amount which shall in no case be less than ten per centum of such cost, and]

(b) machinery [and furniture] shall be excluded from valuations under this section:

[Provided further that where the annual value of any land or building is attributable partly to the use of such land or building or any portion thereof for the display of any advertisement or advertisements and tax is levied under this Act in respect of such advertisement or advertisements, the annual value of such land or building for the purpose of assessing then property tax thereon shall be ascertained as if such land, building or portion is not used for the display of such advertisement or advertisements.]



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(3) *The [State] Government shall have power to make rules regarding the manner in which the person or persons by whom and the intervals at which, the value of the land, the present cost of erecting the building and the amount to be deducted for depreciation, shall be estimated or revised in any case or class to cases to which clause (a) of the first proviso to sub-section (2) applies, and they may, by such rules, restrict or modify the application of the provisions contained in Schedule IV to such case or class of cases].”*

74. I now address the specific issues raised by the petitioners.

I The trigger for the enhancement is itself misconceived.

75. Petitioners argue that the recommendations of the Central Finance Commission do not bind the State Governments. In the present case, the impugned GO and CRs make it apparent that it is, in fact, the Central Finance Commission recommendations that form the basis of the present enhancement. In such circumstances, the very basis of the enhancement, according to the petitioners, is misconceived and militates against the constitutional scheme.

76. Article 280 reads thus:

280. Finance Commission

(1) The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President

(2) It shall be the duty of the Commission to make recommendations to the President as to

(a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them un-



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der this Chapter and the allocation between the States of the respective shares of such proceeds;

(b) the principles which should govern the grants in aid of the revenues of the States out of the Consolidated Fund of India;

(c) any other matter referred to the Commission by the President in the interests of sound finance

(4) The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them

77. A perusal of the Article reveals that the recommendations of the Commission are to address four critical areas relating to the sharing of revenue, including the distribution of net proceeds of taxes between the Union and States as well as the disbursement of grants-in-aid to the states from out of the Consolidated Fund of India.

78. The recommendation of the Central Finance Commission itself reads thus:

7.97 As indicated in paras 7.50 and 7.51, property taxes are among the most important revenue sources for local governments across the world. It is progressive and, to a large extent, satisfies the 'user pays' principle. The MoHUA has correctly pointed out that property taxes have, regrettably, grown much slower than GDP. This is in spite of the fact that, over the medium term, the value of the properties in most urban centres has grown faster than GDP. This only strengthens the argument for focussing sharply on mobilising more property taxes. Furthermore, as most of the taxes at the local body level have been subsumed under the GST, property taxes can help increase revenue buoyancies at the third tier. Our specific observations and recommendations on property tax are contained in our report for 2020-21 at para 5.2 (xxi):



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“The importance of mobilisation of own revenues by self-governing local bodies cannot be overemphasised. It leads to better ownership and accountability. Internationally, property tax is one of the most effective instruments for revenue mobilisation by local bodies. For historic reasons as well as because of vested interests, property tax yields remain negligible in India. We recommend that to qualify for any grants for urban local bodies in 2021-22, States will have to 8 appropriately notify floor rates and thereafter show consistent improvement in collection in tandem with the growth rate of State's own GSDP.”

7.98 This condition in the report for 2020-21 shall continue to be applicable as an entry level condition for all the urban local bodies for availing the grants. Further, this condition is over and above the requirement of timely online availability in the public domain of both unaudited accounts for the previous year and audited annual accounts for the year before previous. In a democratic system, proximity of the elected representative to the tax payer often reduces the willingness to mobilise revenues. Moreover, somewhat curiously, some States have ceilings on property tax rates in urban areas, which militates against the entire principle of decentralisation and devolution of finances and functions to local governments. Instead, the provision of a statutory floor to the property tax rate will help promote the buoyancy of such tax revenues and facilitate the mobilisation of revenues by local governments.

7.99 The conditions mentioned above, have a two-fold implication. First, a State can avail of the grant only if it notifies the floor rates of property tax by suitably amending the relevant State Municipal and Municipal Corporation Acts. However, this condition is a one-time phenomenon. Once the State has done that, the other condition related to the year-wise consistent improvement in collection in tandem with the simple average growth rate of the State's own GSDP in the most recent five years will also apply. The five-year average has been taken to avoid any anomaly arising from cyclical or one-off fluctuation in GSDP. Hence, setting the minimum floor rate is the pre-condition for a State availing of the urban local body grants, but once this pre-condition is satisfied, the State will receive such total grants based



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on the urban local bodies meeting the condition of their property tax revenues in the previous year growing in tandem with the average growth rate of the State's own GSDP in the most recent five years.

7.100 The Housing Price Index, for example RESIDEX by the National Housing Bank, available for many cities in India shows that residential property prices tend to move up as a State develops. There are cities that are exceptions, but given the wide gap between what is actually collected as property taxes and the potential that can be mobilised, the rate of growth of GSDP in the preceding five years provides a good and convenient proxy to measure how far the cities are catching up with their potential property tax revenue during the five years of our award.

7.101 In view of the current pandemic, we recommend the provision of a one-year window for notifying the floor rates of property tax; this will trigger in two stages from 2022-23. In the first stage, States are expected to notify the floor rates and operationalise the arrangements in 2021-22. The condition of notifying the floor rates of property tax will apply for eligibility of grants from 2022-23. Once the floor is notified, the condition of growth in property tax collection being at least as much as the simple average growth rate of the State's own GSDP in the most recent five years will be measured and taken into account from 2023-24 onwards.

79. In *Mohit Minerals Pvt. Ltd.* (supra), three judges of the Hon'ble Supreme Court discussed in detail the constitutional architecture behind the levy of Goods and Services Tax. In dealing with the contextual meaning of the term 'recommendation', such recommendations have been categorised as five in number, Category No.1: Recommendation by the President prior to laying before the Parliament for voting, Category 2: Recommendation followed by consultation; Category 3: Recommendation with accountability; Category



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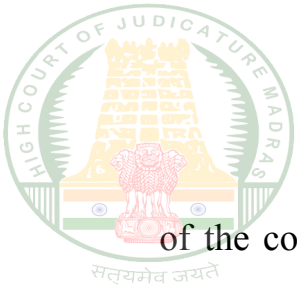
4:Non-qualifying recommendation and Category 5: Recommendations which

are obligatory in nature.

80. The Bench then went on to discuss the category under which the recommendations of the GST Council would fall. In the present case, the recommendations leading to the passing of the impugned CR and GO are of an advisory nature, though the States would be expected to address the issues raised with the seriousness that such issues deserve.

81. The recommendations refer to the falling collections from taxes and urge all States to address this failure and do the needful to ensure that the levy and collections of property tax are optimised. It is in the best interests of the economy that the State pay heed to such recommendations as they are made in the best interests of the economy, as a whole. That apart, the impugned enhancement is based upon the deliberations and conclusions arrived at by the Committee constituted in 2019.

82. Property taxes are a major source of revenue to the State and the report of the Committee as well as the analysis of data supplied by the respondents reveal more than adequately, that this source of revenue was not being deployed effectively. Non-deployment of revenue sources only leads to the denial of proper infrastructure and facilities to the citizens and the enhancement in property tax rates is only a move forward in that direction. I am



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of the considered view that the present impugned enhancement is not vitiated

WEB simply by virtue of the recommendations made by the Finance Commission. At

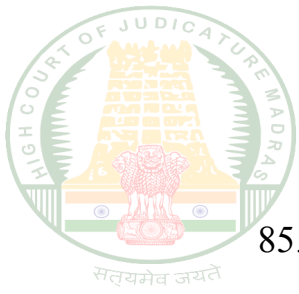
best, it is an exercise in collaboration by the Union and State in the best interests of the Country. This argument is answered accordingly.

83. The next argument turns upon the interpretation of Article 162 of the Constitution of India that reads thus:

162. Extent of executive power of State: Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws.

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by the Constitution or by any law made by Parliament upon the Union or authorities thereof Council of Ministers

84. The petitioners argue that the CRs passed by the Corporations are solely at the instance of the State, that has, vide the impugned G.O. prevailed upon and directed the enhancement of the property tax and this is in violation of Article 162. Article 162 vests authority in the State to issue executive orders in respect of all subject matters that fall within List 2 of the 7th Schedule to the Constitution of India. This authority is however, subject to the existence of any statutory enactment already in existence, with respect to the same subject matter.



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85. State would point out that it has nowhere, sought to issue directions

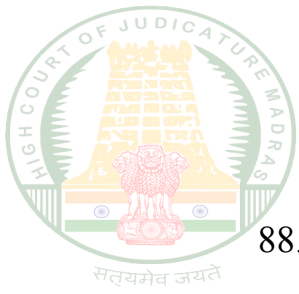
to the Corporations. It accedes to the position that it does not lie within the

domain of the State to have issued any directions to the Corporations in regard to the subject under consideration, being levy and assessment of property tax.

The impugned G.O., is not an exercise of authority under Article 162, and to make this abundantly clear, the concluding paragraph of the G.O., uses the word 'advise' not 'direct'. Thus the impugned G.O. is merely an advisory and purports to be nothing further.

86. The decision in the case of *S.Arunachalam* (supra) challenging G.O.Ms.No.542, Local Administration and Water Supply Department, dated 29.04.1986 is to the effect that Executive power under Article 162 of the Constitution of India is unavailable in respect of a subject matter which is covered by other legislation. In other words, there could be no interference by the Executive in an occupied field.

87. The Hon'ble Supreme Court in *Ram Jaaway V. State of Punjab* (AIR 1955 SC 549) and *B.N.Nagarajan V. State of Mysore* (AIR 1966 SC 1942) as well as of this Court in *V.Chandra V. Government of Tamil Nadu and others* (ILR 1996 (1) Mad.1007), reiterate the settled position that the Executive cannot intervene in a subject matter which is covered by an enactment, being an occupied field.



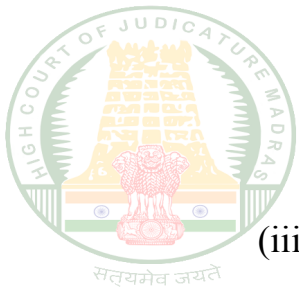
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88. The petitioners have referred to the judgement in the case of *B.N.Nagarajan and others*. The judgement is distinguished by the State that submits that the conclusion of the Hon'ble Supreme Court in that case striking down the Government Order challenged as being an excess of power under Article 162, was rendered in an altogether different context. In that case, the impugned G.O. was not advisory, but had clearly intervened into areas circumscribed by the State Cooperative Act, whereas in the present case, there is no such attempt.

89. Having heard the rival contentions, I am of the view that the impugned G.O. cannot be considered as a diktat. It does precede the CRs and is couched in affirmative terms, indicating that changes are strongly urged in the property tax regime. However in conclusion, it advises, rather urges, that the Corporations take note of, and address the issues raised effectively, in the best interests of the State/District.

90. The Corporations would argue that CRs passed were based upon their own internal deliberations and discussions, and the impugned G.O. was taken to be a guideline. To this end the Coimbatore Corporations has filed a compilation dated 30.11.2022 enclosing the following documents:

- (i) G.O.Ms.No.53 dated 30.03.2022
- (ii) Board Resolution dated 06.04.2022



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(iii) Resolution passed by the Coimbatore Corporation dated 11.04.2022

(iv) Revision of taxation notice issued by the Corporation of Coimbatore dated 11.04.2022

(v) Public Notice (DhinaThanthi) dated 12.04.2022

(vi) Board of Taxation and Finance Committee Resolution dated 17.05.2022

(vii) Resolution of the Council dated 26.05.2022

(viii) Notice issued by the Corporation of Coimbatore to the District Collector, Coimbatore dated 30.05.2022

(ix) Gazette issued by Corporation of Coimbatore dated 30.05.2022

(x) Notice issued by the Corporation of Coimbatore to the District Collector, Coimbatore dated 02.06.2022.

91. The above documents show the sequence of events that have transpired post issuance of G.O. dated 30.03.2022. A Resolution was passed by the Coimbatore Corporation on 11.04.2022, followed by a Public Notice in the Dina Thanthi on 13.04.2022. The Board of Taxation and Finance Committee met and discussed the necessity for and basis of the enhancements to property tax regime. A Resolution was thereafter passed on 17.05.2022 proposing the impugned changes, based upon, and leading to the Resolution of the Council dated 26.05.2022.

92. The trajectory of events are, in my view, acceptable and indicate application of mind by the Corporations. Undoubtedly, the events have been



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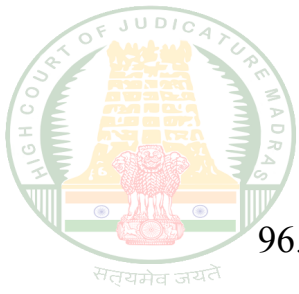
spearheaded by the Union, specifically the Central Finance Commission and

consequently the State. However, the ultimate decision has been taken by the authorities of the Corporations.

93. In *K.Lakshminarayanan and others* (supra), this Court dismissing the Writ Petitions filed by those petitioners questioning the nominations made by the Central Government under Section 3(3) of the Government of Union Territories Act, 1963, refers to the division of Legislative and Executive authority and the Constituent Assembly debates on 'discretion', in the context of centralisation that must vest in the Union.

94. Reference is made to the judgment of *State of Rajasthan V. Union of India* ((1977) 3 SCC 592) quoting Dr.Ambedkar on the federal nature of our Constitution and clarifying that the Constitution could well be moulded to be either unitary or federal per the requirement of time and circumstances.

95. No doubt, the impugned GO, CR and Notification do make reference to the recommendations of the Central Finance Commission. However, such references do not, in my considered view, dilute the proposal for enhancement as the need for such enhancement has been made out by the State, de hors the recommendations of the Central Finance Commission. The admitted position that there has been no enhancement of property tax for the last nearly three decades would itself suffice to justify a proposal for enhancement now.



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96. With this, the challenge to the impugned G.O. and CR on these grounds, stands rejected.

II. Arbitrary and illegal procedure followed in enhancement, which is also violative of principles of natural justice.

97. Section 98 enumerates the kinds of taxes that may be levied by the Council being, a tax on property, companies, profession, on carriages and animals, on carts and on timber brought into the city and, with previous sanction on transfers of property, by way of an additional stamp duty.

98. Section 98A (1) refers to the passing of a resolution by a Council imposing a tax or duty for the first time and thus is not relevant to our case. Sub-section (2) of Section 98A refers to the change in rate of an existing tax and provides that such new rate shall be published in the manner laid down in sub-section (1). Thus, change in rate must be published, objections of the public solicited, considered and thereafter a decision taken in regard to the proposed change.

99. In the present case, public notice has admittedly been issued and objections have, admittedly, been called for from the taxpayers falling within the jurisdiction of both the Chennai and Coimbatore Corporations. In the former, there are 13 lakhs/approx. assesseees. The information relating to the number of assesseees in Coimbatore has not been supplied by the Coimbatore



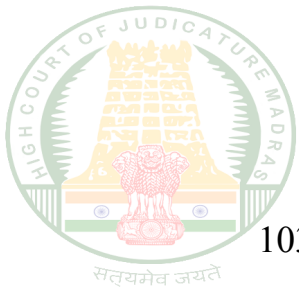
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Corporation. From among approximately 13 lakhs, 30 objections have been received. The disposal of the objections is merely by way of reiteration of the Council Resolution and Notification.

100. In my view, the procedure followed by the Corporations has been by the book and there has been strict compliance with the letter of the law. However, the spirit of the law is quite another matter and there has been a total lack of transparency in calling for objections. Moreover, the manner in which the objections have been dealt with is farcical.

101. It is my considered view that had the objections been dealt with in a serious manner as would behove the respondents, there would have been no necessity for the present Writ Petitions, since complete clarity could be provided by the Corporations even at that stage.

102. It pains the Court to state that the objections have been disposed frivolously without accordance of any weightage to the queries raised. All the queries pertain to issues that have been agitated in these Writ Petitions, being the basis of enhancement and the procedure to be followed in the levy and collection of taxes. It is incumbent upon the authorities to have provided due explanation to these queries and this Court deprecates the casual, careless manner and mechanical fashion in which the objections have been disposed.



103. Furthermore, I find it inconceivable that there have been only 30

objections received from out of a tax payer base running to lakhs and it is thus quite evident that the only reason for this cold response is the lack of publicity that was accorded to the enhancement in the first place.

104. The Corporations have not thought it fit to inform the tax payers sufficiently in advance, or in a proper manner about the proposals and how it intends to implement the same and this is very remiss on their part. Remittance of tax, though a statutory duty, does affect the out-of-pocket of an assessee and any enhancement must be clearly thought out, put to the tax payer for response and only then implemented, after considering objections. Failure to do so would impinge upon the substantive right of an assessee to be well aware of his statutory liabilities in a timely fashion.

105. The State would be well advised to put in place proper machinery in this regard and to ensure that future modifications, including enhancements, are made in accordance with fairness, transparency and following a fair and transparent procedure for dealing with tax payer queries, grievances and objections.

106. Though an infirmity, it has been cured by virtue of the efforts taken by the City Corporation pendente lite, where efforts do appear to have been taken to enable the infrastructure, both physical as well as by use of technology,



to provide services in method of computation, provision of grievance resolution

centres, facilitation counters and an easy-to-use website, to ease the burden

upon the taxpayers. In light of the discussion as above, the arguments of the petitioners on this score, fail.

III. Basis of enhancement is arbitrary and contrary to the provisions of the Act.

107. This is one of the major issues that has engaged the attention of the Court and hence I deal with the same in some detail. This issue may be broken into two sub-issues:

- i) Whether the basis for computation of annual value must only be as per the provisions of the Rent Control Act and
- ii) Whether the adoption of Basic Street Rate (BSR) by the State is proper and compliant with the statutory prescription.

108. A perusal of the relevant provisions as extracted elsewhere makes it clear that Section 100 providing for methodology of assessment of property tax deems the annual value of lands and buildings to be the gross annual rent at which they may reasonably be expected to let from month to month or year to year, less enumerated deductions.

109. The proviso to Section 100(2) deems the gross annual rent in the case of the Government or Railway building or any building of a class not



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ordinarily let and of which the gross annual rate cannot be estimated, to be 6%

of the total of the estimated market value of the land at the time of assessment after effecting the deductions provided for.

110. The buildings of the nature referred to in the proviso would constitute special type of buildings. The petitioners in W.P.Nos. 19914, 30863, 31188, 31190, 29247, 28654, 28660, 28663, 28037, 29896, 31774, 32208 and 32211 of 2022 comprise assesseees of special buildings. Though, in the regime of taxation hitherto followed, the basis of taxation of special assesseees was different, all the counters filed by the respondents are in general terms and no counters have been specifically filed in these Writ Petitions. No specific submissions have been made in regard to these buildings, even by these petitioners.

111. Thus, while this order encompasses and covers the assesseees who own special types of buildings, these petitioners/respondents are at liberty to bring to the notice of this Court any variance in the position relating to taxability of their properties, in which case, the Court will consider if amendments are required to be made to this order and directions issued accordingly.

112. Section 99(2) states that tax would be levied at such percentages of annual value of the buildings and lands as may be fixed by the Council which,



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as per proviso, cannot be less than 15% or greater than 25% of the annual

WEB COPY value. It is for the fixation of the annual value that the deeming methodology under Section 100(2) would be applied.

113. The petitioners would submit that the proper methodology and, in fact, the methodology that is being followed till date is based on the Rent Control Act as it is that enactment that specifically provides for a methodology for determining rent payable. They refer to several decisions to argue that it is only the rent payable that must be taken to be the basis of the rent computation, I proceed to discuss some of the cases cited by the parties, before moving further.

114. In the case of *Guntur Municipal Council* (supra), the Hon'ble Supreme Court refers to the interpretation of Section 81 of the Madras District Municipalities Act, 1920. Sections 81 and 82 deal with assessment of taxes and Section 82(2) provides that the annual value of lands and buildings would be deemed to be the gross annual value of the land at which they may be reasonably be expected to let from month to month or year to year less certain deductions.

115. In the course of discussion, all parties and the Court have proceeded on the basis that it is the Rent Acts that would have to be applied in the property tax assessments of the properties. The Court, in conclusion, declared



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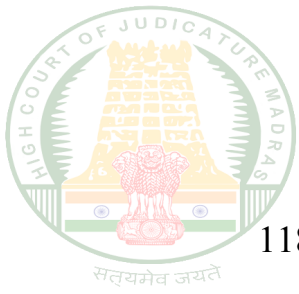
that the general revision made by the Guntur Municipality by increasing rental

valuation of houses and buildings beyond the fair rent determinable under the

Rent Act in force shall be illegal and ultra vires. A permanent injunction was issued restraining the Municipality from realising any amount in excess of such tax found due on the valuation fixed, contrary to the valuation that would arise if the Rent Act were to be applied.

116. In the case of *B.R.Dalavai* (supra) the prayer was for a mandamus restraining the State from levying or collecting property tax on the basis of the notional value or plinth area contrary to the express statutory provisions under the 1919 Act. There was a proposal that was floated by the State that it would be the plinth area that would be adopted for the basis of levy and collection of property tax. The move was resisted by that petitioner, who pointed out that such assessment would not be an assessment based on rental value, but an assessment based upon the dimensions of the property itself.

117. In counter, the respondents stated, relying upon Section 100, that the basis was quite correct and should not be interfered with. A specific contention was also raised by the petitioner therein that the annual value of the buildings can only be arrived at with reference to the provisions of the Rent Control Act.



118. At this juncture, the petitioners would draw heed of this Court to the

fact that the Rent Control Act has been repealed with effect from 22.02.2019 but would still urge that the principles of determination of fair rent under that Act could continue to be applied for other purposes including assessment of property tax.

119. The respondents in that case, as in the matters before me, argued that it was not mandatory that only the Rent Control Act should be applied and that fair rent could be determined by any number of procedures/methodologies. In fact, they went so far as to say that applying the Rent Control Act would distort the scheme of property tax under the 1919 Act in the following terms, captured at paragraphs 7 and part of 8 of the judgment:

'7. Dealing with the petitioner's contention that the annual value of a building can only be arrived at with reference to the provisions of the Rent Control Act, dealing with the fixation of fair rent of buildings, the respondents state that those provisions are not mandatory, that every owner or tenant occupying a building is not under any legal obligation to have the rent of that building fixed under the provisions of that Act, that the fair rent is fixed either at the instance of the tenant or the owner on a specific application being made for the purpose to the appropriate authority, that residential buildings whose rent is more than Rs. 400 do not also come within the scope of the Act at all, that buildings, whether residential or non-residential constructed within five years do not also attract the provisions of the Act, that there- fore, it is not possible to uniformly apply the provisions of the Rent Control Act relating to fixation of fair rent in respect of all buildings, that it is also not the intention of the Legislature to apply the fair rent



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formula to the levy of property tax, that the Madras City Municipal Corporation Act speaks of only expected rent and not actual rent for the purpose of arriving at the annual rental values and that the purpose of the City Municipal Corporation Act and the Rent Control Act being different, the fractional application of the provisions of the Act to another field would create unnecessary complications and will lead to unintended results. It is said that to pick out a particular section or sections of the Act and to apply it to a field different from its own, will disturb the internal consistency, harmony and the scheme of the latter Act, that therefore, the Rent Control Act cannot be applied to the levy of property tax and that the levy of property tax has to be done only in accordance with the provisions of the Madras City Municipal Corporation Act, 1919, and not with reference to the Rent Control Act.

8. The respondents state that, in any event, in actual practice the Corporation found that the rents fixed with reference to the fair rent formula are always very much higher than those assessed by the Corporation under the Madras City Municipal Corporation Act and that the fair rent formula leads to the tax structure being regressive in incidence as it does not take into account the nature of the structure or the building and the situations and the area in which it is located.'

120. This Court framed four questions on the basis of the pleadings as

follows:

'1. Whether the plinth area basis could be adopted for determining the annual value of buildings?

2. Whether the second respondent has adopted the plinth area basis in making the general revision of assessments?

3. Whether the fair rent formula is to be uniformly applied by the second respondent in determining the annual value of all buildings in the City as urged by the petitioner?



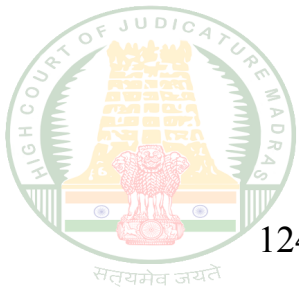
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4. *Whether the reason as to why and how the revision of assessments has taken place in a particular case should be set out in the notices issued under rules 2-B, 3 and 3-A of schedule IV to the Madras City Municipal Corporation Act, 1919 ?*

121. The first question was answered in favour of the petitioner stating that property tax cannot be levied on plinth area basis. The second related to whether the plinth area basis had, in fact, been applied in effecting general revision, which, on the facts presented by those respondents, the Court declined to answer. They also recorded the submission of the learned Advocate General that in any given case, if it were shown that plinth area was adopted as the basis, those assessments would not be pursued.

122. While dealing with the 3rd and 4th issues, which is, as to whether the basis of revision must be set out in the pre-assessment notice, the Court considered the specific argument that the annual value has to be determined only with reference to the fair rent formula under the Madras Buildings (Lease and Rent) Control Act, 1960.

123. The Court considered the judgments of the Hon'ble Supreme Court in *Corporation of Calcutta v. Smt. Padma Debi* (AIR 1962 SC 151), *Guntur Municipal Council* (supra), *New Delhi Municipal Committee V. M.N.Soi* (AIR 1971 SC 302) and *Indore Municipality V. Ratnaprabhu* (AIR 1977 SC 308), extensively in paragraph 15.



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124. The ultimate conclusion was that there was no fetter placed upon the

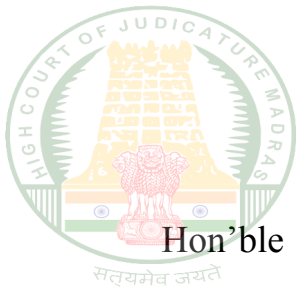
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authorities to only follow the fair rent formula contemplated under the Rent Control Act in respect of those buildings which do not come under, or at exempted from the purview of the Rent Control Act. In cases of other buildings, as a norm, the fair rent formula as provided for in the Rent Control Act should, normally be followed in the determination of annual value of buildings.

125. The respondents would point out that even in the case of *B.R.Dalavai* it is only a recommendation and no strict rule has been laid down that would mandate the position that it would only be the fair rent fixed under the Rent Control Act that must be applied. If there were any other workable or acceptable methodology that may be applied to determine the fair rent, nothing would stand in their way, either in law or in judicial precedence, to prevent the State and the authorities from applying such rates.

126. In the case of *R.Govindarajan* too, following the judgment of *Guntur Municipal Council* (supra), the methodology for assessment of annual value of lands and buildings was held to be the proper measure of determinable fair rent.

127. One of the learned counsel has made elaborate submissions on this aspect of the matter. The first decision relied upon is the judgment of the



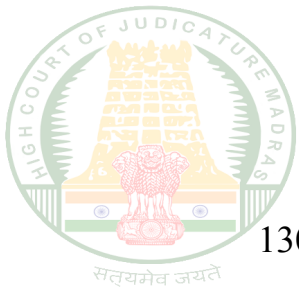
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Hon'ble Supreme Court in *Raza Buland Sugar Co. Ltd.* (supra), which dealt

with the challenge to a proposal of taxation on the ground that the proper procedure as set out under the U.P. Municipalities Act, 1916 was not followed. The appeal ultimately came to be dismissed, the Court holding that it is only a mandatory provision that calls for strict compliance, whereas substantial compliance would be sufficient with regard to a directory provision.

128. In the present case, there is no doubt that the respondents have complied with the procedure for enhancement, though as noted in the paragraphs above, the entirety of the procedure followed appears to be rather farcical. However, there is no dispute on the position that the impugned/offending orders have been placed in public domain and objections called for and disposed. Thus the ratio of this judgment is of no avail to the petitioners.

129. In *Bangalore Woollen, Cotton and Silk Mills Co. Ltd.* that turns on a challenge to the constitutionality of Octroi duty on cotton and wool in terms of Section 98 of the City of Bangalore Municipal Corporation Act, 1949, one of the questions raised is as to whether the failure to notify the final resolution of the imposition of tax in the Government Gazette is fatal to the tax. In the present case, I have held that there is no failure procedurally, as the respondents have followed the process set out under the Acts.



130. In *Patel Gordhandas Hargovindas* (supra), a Constitutional Bench

of the Hon'ble Supreme Court considered an appeal on certificate granted by the Bombay High Court challenging imposition of a rate by the Municipal Commissioner, Ahmedabad, on vacant lands. The levy of rate was under Section 73 of the Bombay Municipal Boroughs Act, 1925.

131. The Court considers the history of the word 'rate' which corresponds largely with the word 'tax' that we deploy for academic purpose.

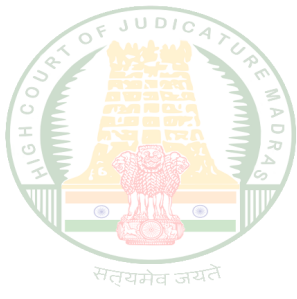
The discussion is extracted below:

8. The word "rate" has come to our country for the purpose of local taxation from England. It will therefore be useful to find out what exactly the word "rate" when used in connection with local taxation meant in England. The English Rating Law is largely derived from the Poor Relief Act, 1601 (43 Eliz. Cap. 2) which provided for raising

"weekly or otherwise, by taxation of every inhabitant, parson, vicar and other and of every occupier of lands, houses, tithes impropriate or appropriations of tithes, coal mines or saleable underwoods, in the said parish in such competent sum and sums of money as they shall think fit, a convenient stock of flax, hemp, wool thread, iron and other necessary ware and stuff to set the poor on work".

The chief provision of this Act was to levy a tax on the occupier of lands and houses and this tax in course of time came to be known as a rate. In "Rating Valuation Practice" by Benn and Lockwood, the authors observe as follows at p. 1:-

"The purpose of rating Valuations is to arrive at a figure termed rateable value on which rates are levied upon the ratepayer at so much in the pound in order to defray the expenses of local government. The present rating law is



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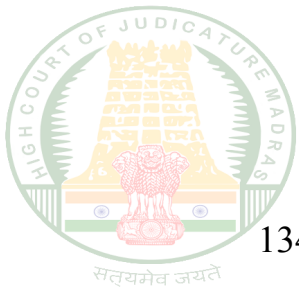


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largely derived from the Poor Relief Act, 1601, which provided for the levying of taxation on "every occupier of land, house..... towards the relief of the poor". Under this enactment occupiers were to contribute to a poor rate according to their means but no specific method of assessment was laid down. The annual value of a person's property within the parish gradually became recognised as the most satisfactory basis and this was first given statutory approval in 1836”

132. Pursuant to the passing of the Poor Relief Act, 1836 providing for a tax on the occupier of land and building, the Poor Rate Assessment and Collection Act came to be passed in 1869, which provided for the method of assessment and collection as before as per Poor Rate Act, 1801. The basis of the levy was understood to be the annual value of land and building as contradistinguished with the capital value of land and building. Thus, the basis was clearly, ‘letting value’ and not ‘capital value’.

133. In 1869, the Valuation (Metropolis) Act came to be passed levying tax on the rateable value which meant gross value less deductions. ‘Gross value’ mean the ‘annual rent’ which a tenant might reasonably be expected to pay. The Rating and Valuation Act, 1925 codified the enactments thus far, providing for uniformity and proper methodology in the levy and collection of property tax.

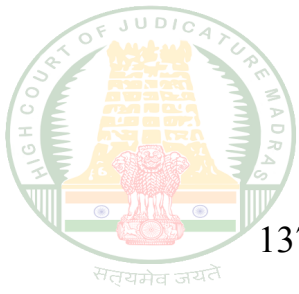


134. At paragraph 14, the three methodologies commonly adopted for

determining rateable value are stated to be i) the actual rent, where the land or building was actually let, ii) hypothetical rent where one would assume a hypothetical figure in situations such as the owner and occupier being one and the same and based on other comparable properties and based on the rent fetched by comparable properties and iii) on capital value of the premises, being contractor's method or contractor's test to determine the structural value of the property.

135. One hardly needs to refer to method (iii), since the 1919 Act clearly provides for Annual Rental Value (ARV) to be the basis of levy of property tax. This judgment is thus useful to understand the context behind the evolution of enactments dealing with levy of tax on properties.

136. In *City Municipal Council, Mangalore* (supra) three Judges of the Hon'ble Supreme Court considered appeals against orders of the Mysore High Court quashing demands of property tax. Therein, there is a reference to the Madras District Municipalities Act, 1920 and in deciding the issue before them, the Bench compared the provisions of the Madras Act and the Mysore Municipalities Act, 1964, which was the successor enactment to the Madras Act.



137. Reliance on this judgment is to advance the specific argument that

the assessment of property tax has to be on annual basis and for a block of 5 years till such time there was a statutory revision.

138. Thus, according to the petitioners, there have to be detailed and individual proceedings of assessment in respect of each of the properties of the tax payers on a year on year basis and any demands, to be valid must be based only on such assessments. This methodology, will have to be followed as there may even be situations where the annual value may have decreased from one year to the next and thus there should not be a mechanical assessment of property tax simply based on the position of the previous year.

139. This judgment is dated 13.10.1969. The principles set out therein are however applicable even today and hence there could be no quarrel with the proposition, in general, that ideally, assessment of property tax has to be made annually. However, it would, in my view, be impossible for there to be annual orders of assessment to be passed on an individualistic basis in respect of every property in the respondent Corporations.

140. Thus, assessments, once made, would continue to hold the field, till such time they are revised by the authorities in a manner known to law or at the instance of the parties, that is, the assessee or the Corporation. To clarify, the



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remittances of tax would have to be made every half year, on the basis of the

WEB last concluded assessment.

141. Technology has replaced the necessity for manual intervention in the process of assessment, though sufficient human resources must be deployed for updation of the website, intervention in the process of assessment where necessary, and resolving grievances of the taxpayers promptly. In my considered view, this is a step forward in the right direction. In the event of a dispute, statutory revision/appeal remedies are always available.

142. In *Nagar Panchayat, Kurwai* (supra), the challenge was to a fee levied for parking of motors, trucks and buses in the bus stand, owned and maintained by the Nagar Panchayat. The challenge was repelled, the Court reiterating recourse to statutory remedial measures, if the demand by the Panchayat was exorbitant, unreasonable or without any quid pro quo. In the present scenario as well, there are several statutory remedies available for challenging demands, if they are found to be either arbitrary or if the basis of assessment, is misapplied.

143. Finally, there are three recent judgments of the Hon'ble Supreme Court that, in my view, would be relevant in the context of the issue now before me. In *New Delhi Municipal Council and others* (supra) the challenge was to a



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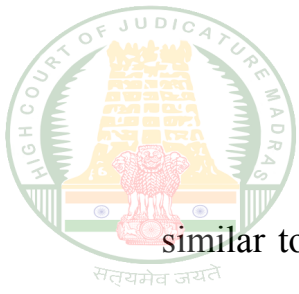
decision of the Delhi High Court relating to the constitutional validity of the
WEB NDMC (Determination of Annual Rent) Bye-laws, 2009.

144. Vide these bye-laws, there had been a change introduced in the earlier regime of determining rateable value for the purpose of levying property tax. The earlier system proceeded on the basis of annual rent that the land/building may reasonably be expected to fetch from year to year and a percentage was prescribed on that basis, for the purpose of computation of property tax.

145. The change brought in a system of unit area method (UAM). On the basis of the changed method, Unique Area Value (UAV) per sq. ft. / m of a property was fixed with reference to the characteristics of the property, such as, location, occupancy, age and structure. The UAV was multiplied by the area comprised by the property in question to arrive at the annual value, upon which, property tax was levied.

146. The Court declared the bye-laws as ultra vires in light of the provisions of the NDMC Act. The Court also noticed the change in basis between the Act and bye-laws. The latter introduced a rateable value as the basis, which is different from annual rent.

147. Section 63 of the NDMC Act provided for a determination of rateable value of lands and buildings assessable to property tax and, very



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similar to the basis of the 1919 Act, stipulated that the rateable value shall be

the annual rent at which such land or building might reasonably be expected to let from year to year, with certain deductions.

148. The Court thus held that the Regulations which provide for a methodology that was foreign to the Statute under which the Regulations were framed could not be countenanced. Section 63 was not silent but stipulated categorically that the annual value has to be based on the annual rent which the property might reasonably be expected to fetch. It is thus based on the letting yearly value of the property, and the shift to a UAV method, changes the basis completely.

149. Interestingly, the Court had noticed that UAM is, in fact, a better method in comparison with the earlier method based on annual rent. However, they felt that a change in methodology must flow from the Statute and thus it is only if Section 63 of the NDMC Act were to be amended, that the changed methodology could be accepted. At paragraph 83, they conclude as follows:

“83. Thus, we agree with the High Court that the impugned Bye-laws that provide UAM which is based on value of the property that on rental which the property is likely to fetch and are, therefore, foreign to the methodology provided in Section 63 of the NDMC Act. Such Bye-laws are, thus, ultra vires the provisions of the NDMC Act. They are in excess of the scope and ambit of powers vested in the NDMC Act under Section 388(1)(A)(9) of the NDMC Act.”



WEB COPY 150. In *Municipal Corporation of Delhi* (supra) the Hon'ble Supreme

Court considered the question as to whether after the 1988 amendment to the Delhi Rent Control Act, such enactment did not apply to a particular property either for the reason that the rent fixed was more than Rs.3,500/- per month, or the property had been newly constructed and exempt from the provisions of the Act for a period of 10 years. Three separate and distinct groups of cases dealing with municipal property tax legislation were set out as having been dealt with by the Hon'ble Supreme Court over the years.

151. The three groups as demarcated by the Court and the conclusions in each situation are extracted below:

8. This Court has dealt with three different groups of cases that have come before it dealing with property tax legislation in the various States of this country. The first group is a group of cases where the Municipal Acts of the States define annual value to be the hypothetical rent that a landlord could reasonably be expected to receive if his property was let out to a hypothetical tenant. It is in this situation that this Court held that such hypothetical rent could not exceed the standard rent fixed or fixable under the rent control statute which obtained in that State. This was laid down in The Corporation of Calcutta v. Padma Debi & Others, 1962 SCR (3) 49 and followed in a number of judgments, which include Balbir Singh's case and P.R. Chaudhary's case.

9. The second group of cases is where the language of the particular Municipal Corporation Act contains a non obstante clause owing to which the standard rent under the particular



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rent statute of that particular State could not be taken to be the maximum rent which could possibly be fetched by a hypothetical landlord from a hypothetical tenant. This class of cases is contained in Municipal Corporation, Indore & Others v. Smt. Ratna Prabha & Others (1996) 4 SCC 622 and the judgments that follow it.

10. Another group of cases is contained in the judgment of this Court in Assistant General Manager, Central Bank of India & Others v. Commissioner, Municipal Corporation for the City of Ahmedabad & Others, (1995) 4 SCC 696. This was a case where the Ahmedabad Municipal Act itself provided the mode of determination of the annual value, so that it became unnecessary to go to the provisions of the Rent Act of that State. The law thus laid down by this Court is summarized in East India Commercial Company Private Limited v. Corporation of Calcutta, (1998) 4 SCC 368 as follows:-

“17. From the aforesaid decisions, the principle which is deducible is that when the Municipal Act requires the determination of the annual value, that Act has to be read along with Rent Restriction Act which provides for the determination of fair rent or standard rent. Reading the two Acts together the ratable value cannot be more than the fair or standard rent which can be fixed under the Rent Control Act. The exception to this rule is that whenever any Municipal Act itself provides the mode of determination of the annual letting value like the Central Bank of India case relating to Ahmedabad or contains a non obstante clause as in Ratnaprabha case then the determination of the annual letting value has to be according to the terms of the Municipal Act.”

152. In the 1919 Act, though the prescription is for the determination for tax on ALV, there is no stipulation or restriction placed, upon the specific



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methodology for determination of ARV. Evidently, and this is in the interests of

the petitioners as well as the respondents, the most scientific and practical methodology must be applied, of which two are fixation of rent under the Rent Control Act and based upon the BSR.

153. In *Griha Yajamanjula Samkhya* (supra), three Judges of the Hon'ble Supreme Court decided the controversy relating to the extent of powers of the Commissioner in assessment of property tax of buildings located in the State of Andhra Pradesh. Though this judgment settles the powers of the Commissioner, inter alia, the Court has spoken on the criteria for determination for levy of property tax as well.

154. The provisions of the Hyderabad Municipal Corporations Act, 1955 and the relevant rules in the Hyderabad Municipal Corporations (Assessment of Property Tax) Rules, 1990 provided that tax shall be levied at such percentages of rateable value as may be fixed by the Commissioner. It also provided for the method and manner of determination of such rateable value which is the annual rental value of the property.

155. Thus, there was a complete scheme of assessment of tax that is inbuilt in that Statute and in the Rules. Neither the Act nor the Rules provide for a fair rent under the Rent Control Act to be binding upon the Commissioner and the Court lauded this discretion, since they noted that determination of



annual rental value depended on several criteria that may expand beyond the criteria set out under the Rent Control Act.

156. At paragraph 37, the Bench states as follows:

'37. The intent and purpose of the exercise to determine the annual rental value is to avoid arbitrariness in the process of assessment of the tax and also to ensure that the landlord does not escape payment of amount due as tax by taking recourse to fraudulent and manipulated underwritings of the rental value. For proper implementation of the provisions of the Municipal Act it is necessary that the power of assessment should be vested in an authority "specified" in the statute. The importance of specifying the authority to assess property tax under the Municipal Act cannot be overemphasized. Keeping in view the incidence of the tax the persons who are to bear the burden of payment of the tax and the effect it will have on the funds of the municipalities for the purpose of development of the area, the legislature vested the power in the Commissioner of the municipal corporation to complete the exercise. As noted earlier, the statute makes provision for setting up committees like the District Level Committee; but such Committees play an advisory role for rendering assistance to the Commissioner in the matter. Therefore, the order of the State Government making the decision of the Committee binding on the Commissioner is not sustainable and the view taken by the High Court in this regard is unassailable.'

157. Equally so, in the present case, though the annual letting value (ALV) is the basis for determination of the annual value of the property, there are no fetters placed on the authorities as to how such annual rent may be determined. Once the annual value is determined by application of a proper and appropriate method, the process of computation begins, based on the ARV



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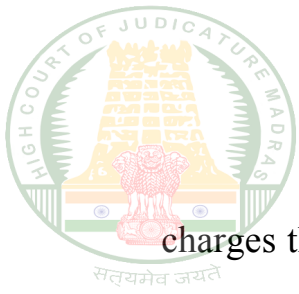
determined. Notably while the details of computation are expressly stipulated,

by setting out the specific percentages and ceiling limits of available deductions, in comparison, there is no method stipulated for the manner in which ARV is to be determined.

158. In *Lokmanya Mills Barsi Ltd.*, the challenge was to Rule 2-C framed by the Barsi Borough Municipality in terms of the Bombay Municipal Boroughs Act, 1925. There was a resolution passed by the Municipality in 1944 to enhance the levy of tax on the assessment of lands and buildings. The rental value was fixed at Rs.40/- for every 100 sq. ft. and after following the process of calling for objections and obtaining of necessary approvals, the Rules were made operative from 01.04.1947.

159. The question that fell for determination was as to whether the impugned Rule which entitled the Municipality to collect tax after computation of annual letting value solely on the area of the factory and buildings was correct. The expression 'annual letting value' was defined in Section 3(1) of the Act as meaning annual rent for which any building or land, exclusive of furniture or machinery contained therein, might reasonably be expected to let from year to year.

160. This was to include all payments made or agreed to be made by a tenant to the owner on account of the occupation, taxes, insurance or other



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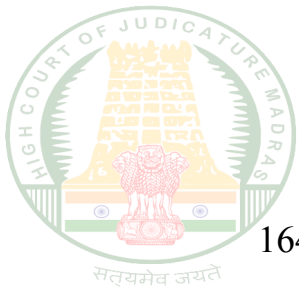
charges that were incidental to his tenancy. Prior to 1947, tax had been levied,

both in respect of the properties as well as water tax, based on annual letting value.

161. With the amendment, the basis of tax was changed to assessment on valuation computed on the floor area of the structures and not on capital value or on annual rent. Thus, the Court noticed that both methods of valuation, being capital value and rental value had been ignored by the Municipality and a new method unsanctioned by the Statute, adopted. This was struck down, the Court observing that had the Municipality adopted a recognised method of valuation, such methodology would not be open to challenge.

162. But in that case, the Court held, the deviation from the statutory methods exposed the move to the challenge laid by the petitioners, relying upon its earlier judgment in the case of *The Borough Municipality of Amalner* (ILR (1952) Bom 918).

163. In that case, the Amalner Municipality had, by its Rules framed under the Boroughs Act, sought to levy a rate equal to a percentage of ALV computed on the floor area of the properties. This methodology found favour by the Court that noticed that the method had been in force for a long time had not been challenged during its long tenure and had not been shown to be either capricious, arbitrary or unreasonable.



164. That apart, the Court also held that reference to floor area and adoption of the same has a basis for computation of ALV was not an unknown move and could not be said to be an alien method in this connection. On the reasoning that has been noticed earlier, the appeals were allowed.

165. A reading of the aforesaid decisions lead to the following propositions alongside which I have penned my conclusion on this issue well:

- (i) Where the enactments concerned, stipulate a specific method for arriving at the value of the property, such method must be applied by the State. The statutory method stipulated is the ARV and this must form the basis of levy of property tax.
- (ii) Where the specific methodology for determination of the ARV is set out either in the Statute concerned or connected Rules and Regulations, the authorities are bound to follow the same. In the present case, there is no such stipulation, and hence the authorities are vested with the discretion to arrive at the proper methodology to determine ARV, such as BSR, application of the formula under the Rent Control Act or any other, for that matter.
- (iii) Such methodology as applied must be one which is normally accepted as being a reasonably accurate method for determination



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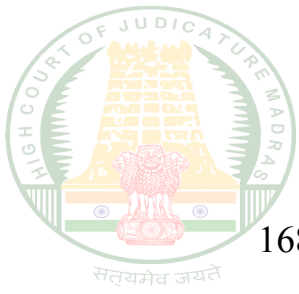
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of annual value and must not present difficulties in the mode of computation involved.

- (iv) Any change in methodology, assuming that the governing enactment provides for the same, must be carried out in strict compliance with the statutory provisions and in compliance with the principles of natural justice. In the present case, the respondents have applied BSR in property tax assessments since 1998 and hence such a situation, of change in methodology, does not arise.

166. The efforts of the respondents in presenting an overall and continuous history of the levy of property tax over the last several decades has been illustrative and informative. Substantial materials have been placed before me by the State to show that this change in methodology has been accompanied by application of mind and scientific study.

167. Over and above this, I am also convinced that the adoption of BSR is acceptable, from a common sense approach as well. With the large scale expansion of Corporation limits as well as the manifold explosion in the number of properties, assessment on a property to property basis is, in my considered view, not practicable.



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168. To this end, I do not see any fallacy or the flaw in the authorities

adopting the mean average rental value of properties in a given street to formulate a BSR. The authorities have placed material explaining that there has been an in depth study of the properties in each street and selection of a few representative houses in a street to arrive at the BSR. Neither the concept, nor the procedure adopted in arriving at a BSR is incorrect.

169. I hasten to add at this juncture that if at all the taxpayer is of the view that BSR qua a particular street is incorrect, either by reason of selection of erroneous examples or for any other specific reason, BSR is itself open to question. To clarify and to reiterate, it is always open to a tax payer to question the adoption of a particular rate as BSR subject to him being able to demonstrate the same. This avenue is not foreclosed.

170. Subject to this, the adoption of BSR itself which is seen to be the basis of determination of ALV over the years, has been established by the respondents and in my view is liable to be accepted. The impugned CR and GOs only enhance the factorial in this regard bearing in mind inflation and other necessary factors, and no flaw has been shown in this regard.

171. The submissions of the petitioners to the effect that it is only rental value as computed under the Rent Control Act that can form the basis of determination of ALV is, in my view, unacceptable. The 1919 Act only



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requires the determination of annual value to be based on ALV and there is no

dispute that this is the procedure that is perpetrated now.

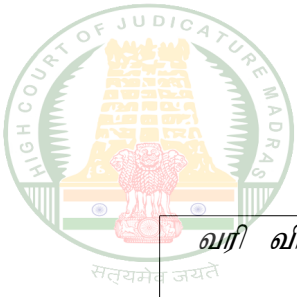
172. Admittedly, there is no restriction on the methodology as to how ALV is to be determined and thus there is substantial play in the joints that has been afforded to the respondents in this regard.

173. This issue is thus held in favour of the respondents.

IV. Whether the slab rate provided within the BSR is permissible.

174. The factorial that is provided under the impugned CR and GO contain a further break-up of a slab rate in respect of properties as follows:

வரி விதிப்பு இனங்கள்	முந்தைய சென்னை மாநகராட்சி பகுதிகளுக்கு	2011 ஆம் ஆண்டு பெருநகர சென்னை மாநகராட்சியுடன் இணைக்கப்பட்ட உள்ளாட்சி அமைப்புகளுக்கு
	உயர்வு காரணி	உயர்வு காரணி
குடியிருப்பு கட்டிடங்கள் பரப்பளவு 600 சதுர அடி வரை	1.50	1.25
குடியிருப்பு கட்டிடங்கள் பரப்பளவு 601 சதுர அடி முதல் 1200 சதுர அடி வரை	1.75	1.50
குடியிருப்பு கட்டிடங்கள் பரப்பளவு 1201 சதுர அடி முதல் 1800 சதுர அடி வரை	2.00	1.75
குடியிருப்பு கட்டிடங்கள் பரப்பளவு 1801 சதுர அடி முதல்	2.50	2.00



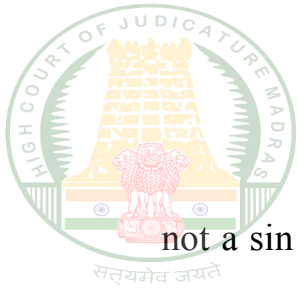
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	உயர்வு காரணி	உயர்வு காரணி
தொழிற்சாலை	2.00	1.75
குடியிருப்பு அல்லாத பகுதி	2.50	2.00
சிறப்பு வகை கட்டிடங்கள் (தங்கும் விடுதி, கல்யாண மண்டபம், மருத்துவமனை, திரையரங்கம்)	குடியிருப்பு அல்லாத பகுதி இணையாக வரி விதிக்கப்பட வேண்டும்	குடியிருப்பு அல்லாத பகுதி இணையாக வரி விதிக்கப்பட வேண்டும்
தனியார் கல்வி நிறுவனங்கள் மற்றும் அரசு நிதியுதவி பெற்று இயங்கும் கல்வி நிறுவனங்களில் சுயநிதி அடிப்படையில் செயல்படும் கல்வி நிறுவன கட்டிடங்கள்	2.00	1.75

175. In this connection, a comparison is made between the methodology under the impugned Government Order as well as in the National Capital of Delhi and in Bangalore, to show that no such slab rate is provided for in either jurisdiction. This argument does not appeal as every State/UT is at liberty to design the levy of tax to suit its tax base, and in the best manner that it conceives.

176. The petitioners, who have challenged this particular aspect of the matter, would argue that have been discriminated against, merely for ownership of a larger property. Ownership of properties that are larger in dimensions is



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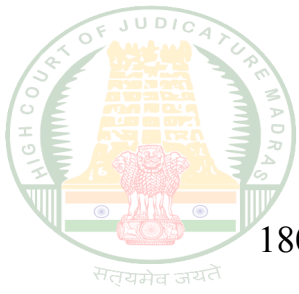
not a sin and the slab imposed is punitive in nature. Moreover, they argue that

WEB COPY there is no basis for the slabs imposed.

177. In my considered view, there is no merit in the aforesaid submissions. Evidently, and as the respondents have also pointed out, the fixation of slabs is intended as a benefit extended to owners of properties graded on the basis of size. The factorial for properties admeasuring less than 600 sq. ft., has been enhanced from 1.25 to 1.50, for properties between 601 to 1200 from 1.50 to 1.75, for properties between 1201 to 1800 the factorial stands enhanced from 1.75 to 2.00. In all situations, there is an enhancement of .5 percentage of the rate previously applicable. Properties admeasuring above 1801 sq. ft. stands enhanced to 2.00 from 1.50 as it was previously.

178. The respondents project as though the slab system existed even earlier and the tabulation extracted above reveals the slabs fixed in 2011. However, no document has been produced by the Corporation/State in support of the existence of slab rates prior to the present impugned proceedings. This point has not been argued by the petitioners.

179. However, even assuming that the fixation of slab has been done for the first time, the policy has only sought to take into account varying economic strata within the tax base and there is nothing untoward in the same.



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180. That apart, I am unconvinced by the submissions that a slab rate is

discriminative, since even one assumes so, there is an intelligible differentia between the classes of persons to whom the benefit of the slab rate enures.

181. This submission of the petitioners is rejected.

182. As W.P.Nos.31982, 23612 and 25565 of 2022 have been filed by associations, a preliminary objection has been raised by the respondents, at the time of admission of only W.P.No.31982 of 2022, on the maintainability of the same on the ground that an association had no locus to file a Writ Petition. A short counter has also been filed to similar effect.

183. The petitioner in W.P.No.31982 of 2022 has placed reliance on the judgment of the Constitutional Bench of the Hon'ble Supreme Court in the case of *D.S.Nakara and others V. Union of India* (AIR 1983 Supreme Court 130). The Court was considering the classification in pension formula and at paragraph 64 of the AIR report, considers the locus standi of the third petitioner, who was a non-political, non-profit and voluntary organisation registered under the provisions of the Societies Registration Act, 1860.

184. The Bench referred to the majority decision in an earlier judgment in *S.P.Gupta V. Union of India*, (AIR 1982 SC 149) to the effect that any member of the public having sufficient interest, can maintain an action for such judicial redress for public injury arising from a breach of public duty or from



violation of a provision of the constitution or law and seek enforcement of such duty or observance of the constitutional/legal provision.

185. Thus the entitlement of the organisation to enforce the rights of retirees was held to be and its locus standi were held to be unquestionable. These writ petitions are also held maintainable as the questions raised in these Writ Petitions also concern a challenge to a G.O. and CR that have far reaching public consequences.

Conclusion

186. In conclusion,

- i) The amendments by way of impugned Government Order in G.O.Ms.No.53 dated 30.03.2022, Gazette Notification dated 11.04.2022 and Council Resolution (CR) Nos.63 of 2022 dated 30.05.2022 (Chennai) and 94 dated 26.05.2022 (Coimbatore) stand confirmed and challenges to the same are dismissed.
- ii) Property tax General Revision Notices for the period 2022-23 (II), i.e., second half onwards are set aside. The petitioners have been enjoying the benefit of interim protection till date. More importantly, seeing as clarity in regard to the entire process has been obtained only pending Writ Petitions, this Court directs that qua the Writ Petitioners, the amendments will be operative on and



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from the first half of 2023-24, i.e., 01.04.2023 onwards. The challenge to the property tax demands as aforesaid is accepted. However, pending Writ Petitions, if the petitioners have settled the amounts to be paid, they shall continue to do so in line with the amendments that have now been upheld.

- iii) The Corporations will ensure that the websites are kept robust and grievance mechanisms are put in place to enable all property tax assesses to seek clarifications in regard to any aspect of property tax assessments.

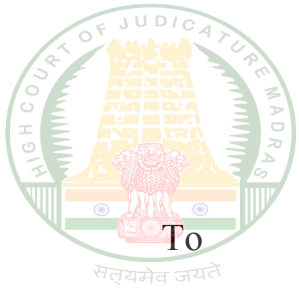
187. All the Writ Petitions are disposed in the aforesaid terms. Connected Miscellaneous Petitions are closed and there shall be no order as to costs.

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23.12.2022

Index : Yes / No

Speaking Order/Non-speaking order



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To

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1. The Commisioner,
Greater Chennai Corporation,
Ripon Building, Chennai – 600 003.
2. The Secretary,
Municipal Administration and Water
Supply Department,
Fort St. George Building,
Chennai – 600 009.
3. The Zonal Officer,
Zone IX, Ward No.118,
Nungambakkam,
Greater Chennai Corporation,
Chennai – 600 034.



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DR.ANITA SUMANTH, J.

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