

REPORTABLE

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ WRIT PETITION (CIVIL) NOS. 14887 AND
14897 OF 2004

Date of Decision : 1st April, 2008.

MUNICIPAL CORPORATION OF DELHI Petitioner.

Through Ms. Geeta Mehrotra, Advocate.

VERSUS

DEEPAK JAIN & ANR. Respondents.

Through Mr. B.B.Jain, Advocate.

% 01.04.2008

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

1. Whether Reporters of local papers may be
allowed to see the judgment?

2. To be referred to the Reporter or not ? YES

3. Whether the judgment should be reported
in the Digest ? YES

SANJIV KHANNA, J:

1. As similar questions and issues arise for consideration in these two Writ Petitions, they are being disposed of by this common judgment. Application under Order VI, Rule 17 of the Code of Civil Procedure, 1908 (hereinafter referred to as the Code, for short) filed by the Municipal Corporation of Delhi (hereinafter referred to as MCD, for short) raising additional grounds of appeal will also be disposed of by this common judgment. During the course of hearing, arguments on the said applications were also addressed.

2. The above writ petitions filed by the MCD pertain to property no. M-6, Hauz Khas, New Delhi. The said property is owned by Mr. Deepak Jain and Ms. Trishla Jain, (hereinafter referred to as the respondents, for short). Writ Petition (Civil) No. 14887/2004 pertain to the year 1999-2000 and Writ Petition (Civil) No. 14897/2004 pertains to the year 2000-2001. Assessment for these years was made vide Order dated 28th March, 2002 passed by the Joint Assessor & Collector. The said Order refers to notice dated 27th March, 2000, under Section 126 of the Delhi Municipal Council Act, 1957 (hereinafter referred to as the Act, for short) proposing to enhance rateable value of the property from Rs.3,72,480/- p.a. to Rs.88,78,160/- p.a. This notice was issued

on account of first letting and change of user. By Order dated 28th March, 2002 rateable value was fixed at Rs.63,75,000/- w.e.f. 1st January, 1999, Rs.65,87,500/- w.e.f. 1st March, 2000 and Rs.62,10,200/- w.e.f. 1st January, 2001.

3. Respondents thereafter preferred appeals under Section 169 of the Act and the same were disposed of by the impugned Order dated 10th July, 2002. The Appellate Court has, inter alia, held that the notice for enhancement issued under Section 126 (1) of the Act was void on two grounds. Firstly, notice did not disclose details and reasons for enhancing the rateable value and secondly, notice was not served within the financial year in which it was issued i.e.; 31st March 2000. MCD has accordingly filed the present Writ Petitions impugning the Order dated 10th July, 2002 passed by the learned Additional District Judge.

4. Photocopy of the notice dated 27th March, 2000 under Section 126 of the Act has been placed on record by the respondents. The case of the respondents is that the said notice was received on 3rd April, 2000 i.e. after 31st March, 2000. It is the case of the respondents that the said notice is a nullity because it was not served during the financial year 1999-2000 i.e. before 31st March, 2000. It is also the case of the respondents that the said notice cannot be relied upon for enhancing the rateable value w.e.f. 1st April, 2000. In this regard reliance is placed upon the judgment of the Supreme Court in the case of ***Shyam Kishore and others versus M.C.D. and another*** reported in 48 (1992) DLT 277 (S.C.) and ***Aggarwal Juneja Associates versus M.C.D. and others*** reported in (89) 2001 DLT 623. On the question of liability to pay enhanced house tax for the financial year ending on 31st March, 2000 with reference to the expression “given” used in the proviso to section

126(1) of the Act, reliance was placed upon the decision in ***K. Narasimhiah versus H.C. Singri Gowda*** reported in AIR 1966 SC 330 and ***MCD versus Dharma Properties and another*** reported in 120 (2005) DLT 588 (DB). On the question that notice did not give full details and particulars and is therefore a nullity, reliance was placed upon the decision in the case of ***Food Corporation of India versus State of Punjab and others*** reported in AIR 2001 SC 250. Learned counsel for the petitioner, on the other hand, has relied upon ***MCD versus Ramkishan Khandelwal and others*** reported in 101 (2002) DLT 169.

5. The question whether the notice gave sufficient details and particulars does not require elaborate examination. The notice under Section 126 of the Act sets out reasons for enhancement of the assessment list as under : “*increase in rateable value due to first letting and change of use*”. The respondents are owners of the building in question and in their objections have admitted that the property was rented out to one, Dorling Kindersley (India) Pvt. Ltd. w.e.f. 1st September, 1999 on a monthly rent of Rs.6,50,000/- with interest free security deposit of four months and advance rent of Rs.19,50,000/- equivalent to three months rent adjustable in 18 months. It cannot be said that the respondents were not aware of the reason and cause for issuance of the notice for enhancement of rateable value. Judgment in the case of ***Food Corporation of India*** (supra) relied upon by the respondents is distinguishable because in the said case, the notice merely mentioned that the assessment was proposed to be regularised as the property therein was assessed on a lesser value due to inadvertent mistake and fraud. Nature of mistake or fraud was not indicated. The assessee was asked to produce documents in support within a month for assessing the rateable value. It was the case of the assessee therein that there was no addition, alteration or

change in circumstances which necessitated increase in the rateable value. Objections filed by the assessee therein were rejected and rateable value was enhanced on the ground that previous assessment list was prepared under mistaken impression about capacity of godown and upon verification, the correct factual position had emerged. Notice for enhancement was quashed by the Supreme Court holding that the notice had not specified the reason why amendment was necessitated and therefore there was violation of the principles of natural justice. Necessary details in order to enable the assessee therein to meet the case was denied. Notice is issued to the affected person so that he has a reasonable opportunity of meeting the reasons and grounds for enhancement of the rateable value. A vague and unspecific notice does not comply with statutory requirements and prevents a person from meeting and answering the reasons which the Corporation has in mind for issuing the proposal for enhancing the rateable value. In the present case, notice was reasonably clear for the respondents to understand the reason for proposed enhancement. The respondents-assessee were not taken by surprise as is clear from the objections filed. The reasons for proposed enhancement were clearly understood by the respondents. The respondents were not under any misapprehension or confusion. It is well known that rateable values are fixed on different parameters depending on whether or not the property is self-occupied or is on rent.

6. The second question which arises for consideration is whether notice for enhancement is void as it was served on 3rd April, 2000, and whether it can be relied upon for the financial year beginning from 1st April, 2000.

7. I may mention here that the respondents-assessee in their objection dated 10th April, 2000 had specifically stated that aforesaid notice was received on

3rd April, 2000 by registered post. The objection was filed within 7 days of the receipt of notice and, therefore, the appellant could have verified the said fact. The Joint Assessor & Collector in his Order dated 28th March, 2002 did not dispute and question receipt of notice under Section 126 of the Act by the respondents-assessee on 3rd April, 2000. One of the grounds raised by the petitioner in the amendment application is that the respondents-assessee was served with notice under Section 126 of the Act before end of the financial year i.e. 31st March, 2000. The petitioner has relied upon registered A.D. cards which have been enclosed with the amendment application. The A.D. cards do not mention the date of receipt and therefore do not help the petitioner. The Order of Joint Assessor and Collector also goes against the petitioner. The respondents-assessee had specifically raised the objection and stated that the notice under Section 126 of the Act was received on 3rd April, 2000. Objections were filed on 10th April, 2000. It was open to the petitioner to apply to the postal authorities in terms of Post Office Guide (Rules and Regulations relating to Inland Posts) and reject the plea of the respondents. Clause 169 of the said Guide provides as under :-

“169. Attested copies of receipts.- The sender of a registered article may obtain an attested copy of the original receipt signed by the addressee on payment of the prescribed special fee provided that he makes his application for it within six months of the date on which the addressee signed the original receipt.”

8. The date on which notice under Section 126 of the Act was received by the respondents is a question of fact. In view of the findings given by the Joint Assessor and Collector and the facts stated above, it has to be held that the

notice for enhancement under Section 126 of the Act, was not served during the financial year 31st March, 2000.

9. Learned counsel for the petitioner submitted that the issue of giving of notice is sufficient compliance of the proviso to Section 126 of the Act and receipt of notice after the end of the financial year is inconsequential. Reliance in this regard was placed upon the decision of the learned Single Judge of this Court in the case of ***Ram Kishan Khandelwal*** (supra).

10. The Relevant Portion of Section 126 of the Act reads as under:-

“126. Amendment of assessment list.—

(1) The Commissioner may, at any time, amend the assessment list-

(a) by inserting therein the name of any person whose name ought to be inserted; or

(b) by inserting therein any land or building previously omitted; or

(c) by striking out the name of any person not liable for the payment of property taxes; or

(d) by increasing or reducing for adequate reasons the amount of any rateable value and of the assessment thereupon; or

(e) by making or cancelling any entry exempting any land or building from liability to any property tax; or

(f) by altering the assessment on the land or building which has been erroneously valued or assessed through fraud, mistake or accident ; or

(g) by inserting or altering an entry in respect of any building erected, re-erected, altered or added to, after the preparation of the assessment list:

Provided that no person shall by reason of any such amendment become liable to pay any tax or increase of tax in respect of any period prior to the commencement of the year in which the notice under sub-section (2) is given].

(4) No amendment under Sub-section (1) shall be made in the assessment list in relation to—

(a) any year prior to the year commencing on the 1st day of April, 1988, after the 31st day of March, 1991;

(b) the year commencing on the 1st day of April, 1988, or any other year thereafter, after the expiry of three years from the end of the year in which the notice is given under Sub-section (2) or Sub-section (3), as the case may be.

11. The said Section has to be read along with Section 444 of the Act, which for the sake of convenience is reproduced below:-

“444. Service of notices, etc.—(1) Every notice, bill, summons, order, requisition or other document required or authorised by this Act or any rule, regulation or bye-law made thereunder to be served or issued by or on behalf of the Corporation, or any of the Municipal authorities specified in Section 44 or any Municipal officer, or any person shall, save as otherwise provided in this Act or such rule, regulation or bye-law, be deemed to be duly served—

(a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered office or at its principal office of place of the business and is either—

- (i) sent by registered post, or
 - (ii) delivered at the registered office or at the principal office or place of business of the company;
- (b) Where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either—
- (i) sent by registered post, or
 - (ii) delivered at the said place of business;
- (c) Where the person to be served is a public body, or a corporation, society or other body, if the document is addressed to the secretary, treasurer or other head officer of that body, corporation or society at its principal office, and is either—
- (i) sent by registered post, or
 - (ii) delivered at that office;
- (d) in any other case, if the document is addressed to the person to be served and—
- (i) is given or tendered to him, or
 - (ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, if within the Union Territory of Delhi, or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building, if any, to which it relates, or
 - (iii) is sent by registered post to that person.”

12. The proviso to Section 126(1) of the Act states that an owner will not be liable to pay tax by reason of amendment of the assessment list, which can be

made at any time, for the period prior to the financial year in which notice under Section 126(2) for amendment of the assessment list is given. Owner is, therefore, not liable to pay enhanced tax/tax retrospectively or for the period prior to the financial year in which notice for amendment of the assessment list is given.

13. Judgment of the learned Single Judge of this Court in the case of **Ram Kishan Khandelwal** (supra) deals with Section 126(4) of the Act which prescribes time limit or limitation period for passing of an assessment order after notice for enhancement is given. In this context it was held by the learned Single Judge that amendment to assessment list can be made in the year commencing after 1st day of April, 1988, if it is made within three years from the end of the year in which notice is given. The Court was primarily concerned with the term “made”; and whether the assessment order is **made** on the date it is passed or it is **made** on the date when it is communicated to the assessee. Learned Single Judge referred to some judgments relating to Income Tax Act. However, the learned Single Judge also noticed the difference in expression “giving” and “receipt” and after referring to judgment in the case of **K. Bhaskaran versus Sankaran Vaidhyan Balan** reported in AIR 1999 SC 3762 observed that giving of notice is different from receiving of notice. These observations to my mind were made in the context of Section 126(4) of the Act and have to be read in the light of the subsequent decision of the Division Bench of this Court in **Dharma Properties** (supra) and the judgment of the Supreme Court in the case of **MCD versus Qiamat Rai Gupta and others** reported in (2007) 7 SCC 309. Division Bench of this Court in **Dharma Properties** (supra) has observed that the expression “giving of notice” had been used in Sections 124(2), 124(3), 126(1), proviso to 126(1), 126(2) and 126(4) of the Act. With reference to proviso to Section 126(1) of

the Act, with which we are concerned in the present case, the Division Bench referred to decision of the Supreme Court in the case of **Narasimhiah** (supra) and quoted the following observations:-

“.....giving of anything as ordinarily understood in the English language is not complete unless it has reached the hands of the person to whom it has to be given. In the eye of law however giving is complete in any matters where it has been offered to a person but not accepted by him. Tendering of a notice is in law, therefore, giving of a notice even though the person to whom it is tendered refuses to accept it. Thus as soon as the person with a legal duty to give the notice despatches the notice to the address of the person who whom it has to be given, the giving is not complete.”

14. Thereafter, in paras 19-24 of the said judgment it was elucidated as under:-

“19. The Court held that Parliament used the words serve, give and send as interchangeable terms. Therefore, it was held that the expression issue to and serve upon were equivalent expressions. The Court held that the dictionary meaning of the expression issue takes in the entire process of sending the notice as well as the service thereafter. The said word used in Section 34(2) of the Act thus was interpreted by the Court to mean serve. The limited meaning, namely, send was held to exclude from the operation of the provision a class of cases and introduce anomalies in the circumstances by interpretation. Hence, the Court accepted the wider meaning of the word issued bears.

20. The Supreme Court again had occasion to consider Section 27 of the General Clauses Act in the judgment

of **K. Bhaskaran v. Sankaran Vaidhyan Balan**, IV (1999) CCR 63 (SC)=VIII (1999) SLT 147=AIR 1999 SC 3762 (hereafter called *Bhaskaran's* case). There the issue involved was the giving of notice under Section 138 of the Negotiable Instruments Act to drawer of a cheque which is returned unpaid. The Court invoked Section 27 of the General Clauses Act and held that a presumption could be drawn in accordance with Section 27 if it is proved that the person required to send the notice or sends it by registered post, at the correct address, which is delivered in the ordinary course of post, until a contrary fact is proved.

21. The entire basis of an assessment and as in the present case amendment to assessment list is the issuance of notice. This factor assumes considerable significance because the rateable value is sought to be made effective from commencement of the year in which the notice is given. If the notice is given on the last date of the concerned year, it would nevertheless relate back and the consequence of a higher rateable value would follow. If, however, the notice is not so issued the entire proposal to amend would be endangered.

22. As noticed earlier, Section 444 does not use the expression give. However, it indicates the mode of serving notices. The limitation of accepting an interpretation that would connote its receipt are obvious. As has been noticed by the Supreme Court in *Bhaskaran's* case, the object of giving could be defeated by refusal. The judgment of the Supreme Court in *Narasimhiah's* case on the other hand indicates that mere despatch or the date of despatch itself would complete the process of giving of a notice or the serving of a notice. The process of giving would imply the following steps—

- (i) issue of the notice;
- (ii) the despatch of the notice;
- (iii) receipt of notice.

23. Although the last point in time would logically culminate in the giving of a notice nevertheless its uninhibited acceptance as the meaning of give may not be appropriate. There can be various situations in which the notice properly issued and despatched might not be received such as refusal, absence of recipient/assessee, or adoption of dilatory tactics by the recipients. Each of this would defeat the purpose of an otherwise legitimate exercise of carrying out increase or modification in an assessment list.

24. In our opinion, the most appropriate manner to deal with issue would be to construe Section 444(1) having regard to Section 27 of the General Clauses Act. The General Clauses Act provides that unless a different intention appears the giving of a notice is deemed to be completed in the manner provided for, namely, by despatching through registered post at the proper address and upon expiry of a reasonable period from the date of such despatch, till a contrary event is proved. It would be clear that the underlying theme of Section 27 is two-fold. First it enacts the mode of service; second it also provides for or enacts a presumption, though rebuttable, of fact. If one keeps this in mind these too, the requirement of Section 444(1) would mean that giving of a notice under Section 126(1) is complete not on the date of its despatch through registered post but on the expiry of a time on which the notice would be delivered in the ordinary course of post, unless a contrary date is proved.”

15. Thus, the Division Bench of this Court has held that for the purpose of proviso to Section 126(1) of the Act, giving of notice means service of notice or receipt of notice. Mere despatch of notice will not be sufficient for the purpose of proviso to Section 126 (1) of the Act and the term “giving” as used in proviso to Section 126(1) implies issue or despatch of notice through registered post and expiry of time within which notice would be delivered to the recipient in ordinary course by post, unless contrary is proved.

16. Reliance was placed by learned counsel for the petitioner on para 27 of the said judgment, which reads as under :-

“27. On the issue of giving of notice, therefore, we are of the opinion that the view taken by the learned Single Judge was correct and requires no interference.”

17. Reliance of the petitioner on Para 27 is misconceived. The said paragraph refers to Section 126(4) of the Act, i.e. the date or the period within which assessment order for modification of the assessment list is to be made and is not made in reference to Section 126(1) of the Act and the proviso thereto. The above interpretation becomes clear on examining the decision of the Supreme Court in the case of ***Qiamat Rai Gupta*** (supra). The Supreme Court has held that the term “made” is not synonymous with “communicate” and in ordinary parlance carry different meanings. It was also noticed that the word “made” is past and past participle of the word “make”. Accordingly for the purpose of Section 126(4) of the Act, assessment order or an order for enhancement of the rateable value is made when the order is passed and not when the order is communicated to the affected person. Reference in this regard was made to the case of ***Collector of Central Excise, Madras versus***

M/s. M.M. Rubber & Co. Tamil Nadu reported in 1992 Supp. (1) SCC 471 wherein it was observed that order or decision of an authority comes into force and becomes operative from the date it is signed or it is made. Date of communication of an order to the party whose rights are affected is not the relevant date for determining whether the power was exercised within the prescribed time. Communication of an order is a necessary ingredient to provide opportunity to the aggrieved party to take recourse to law and raise his defence in accordance with the statute in question. However, the present case involves interpretation to proviso to Section 126(1) of the Act and the expression “giving of notice” used therein. To that extent I am bound and respectfully agree with the decision of the Division Bench in the case of ***Dharma Properties*** (supra). In the present case, we are not concerned with the passing of an order or the date on which the order is made. We are concerned with “giving of notice” for enhancement of rateable value and whether the expression “giving of notice” used in the proviso to Section 126(1) of the Act refers to receipt of notice or mere despatch. Keeping in mind the purpose and object behind the proviso to Section 126 (1) of the Act and the quoted paragraphs, from the decision in the case of ***Dharma Properties*** (supra) the expression “giving of notice” used in the proviso to Section 126 of the Act refers to receipt of notice by the assessee in normal course and not mere issue or dispatch. Notice should be issued in a manner that it should be received by the assessee within normal course within the financial year .

18. I may here refer to another recent decision in the case of ***C.C.Alavi Haji versus Palepetty Muhammad and another*** reported in (2007) 6 SCC 555. The Supreme Court examined the proviso to Section 138 of the Negotiable Instruments Act, 1881 and has held that giving notice in the context of the relevant provision is not the same as receipt of notice. Giving of notice is a

process of which receipt is the culmination. It was emphasised that any other interpretation would permit a trickster cheque drawer to get premium by avoiding a receipt of notice by different strategies and escape the legal consequences of Section 138 of the Act. Nevertheless, in paragraphs 10 and 14 of the said judgement it was observed as under:

“**10.** It is, thus, trite to say that where the payee dispatches the notice by registered post with correct address of the drawer of the cheque, the principle incorporated in Section 27 of the GC Act would be attracted; the requirement of Clause (b) of proviso to Section 138 of the Act stands complied with and cause of action to file a complaint arises on the expiry of the period prescribed in Clause (c) of the said proviso for payment by the drawer of the cheque. Nevertheless, it would be without prejudice to the right of the drawer to show that he had no knowledge that the notice was brought to his address.”

“**14.** Section 27 gives rise to a presumption that service of notice has been effected when it is sent to the correct address by registered post. In view of the said presumption, when stating that a notice has been sent by registered post to the address of the drawer, it is unnecessary to further aver in the complaint that in spite of the return of the notice unserved, it is deemed to have been served or that the addressee is deemed to have knowledge of the notice. Unless and until the contrary is proved by the addressee, service of notice is deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of business.”

19. In view of the findings given above, it is held that the respondents will not be liable to pay tax on the enhanced rateable value for the financial year ending 31st March, 2000 as the notice was served after the end of the said financial year. The proviso to Section 126(1) protects the respondents-

assessee and therefore tax on the enhanced rateable value cannot be charged for the financial year ending on 31st March, 2000.

20. Learned counsel for the respondents submitted that notice for enhancement is void and cannot come to the benefit of or can result in enhancement of rateable value for the financial year 1st April, 2000 onwards. Judgment of the learned Single Judge of this Court in the case of **Aggarwal Juneja Associates** (supra) does support the respondents-assessee. However, the said judgment is impliedly overruled and is contrary to the judgment of a Division Bench of this Court in the case of **Subhash Chand Goyal and another (supra)** wherein a similar contention was raised by the assessee therein but rejected, inter alia, holding as under:-

“Similarly, it is difficult for us to uphold the findings of learned ADJ that if notice is served in the year for which the proposal is sought to be made then the notice per se would become illegal. Proviso to Section 126 provides the answer. Notice under Section 126 is nothing but a proposal to fix the rateable value and it is open to the assessee to put up his case as to from which particular date or time tax is assessable by providing details as to the date of completion of building and other relevant particulars. Moreover, proviso to Section 126 itself provides that assessee would not be liable to pay tax in respect of any period to the commencement of the year in which notice is given. Merely because notice is not served in the year for which the proposal is sought to be made does not render it per se illegal and invalid.”

21. Section 126(1) permits Commissioner to amend the assessment list at any time. No period of limitation is prescribed. The Section does not stipulate that amendment to the assessment list will be prospective. The proviso to Section

126(1) of the Act, on the other hand, stipulates that no person shall be asked to pay tax or tax on enhanced rateable value for the period prior to commencement of the year in which the notice for enhancement is given. Protection is given to the assessee from payment of tax or enhanced tax for the period prior to the commencement of the year in which notice is given. The proviso does not state that assessment list cannot be amended for the period or years prior to the year in which notice is given. It stipulates that tax or enhanced tax cannot be collected by reason of amendment in the assessment list, prior to commencement of the year in which notice for enhancement is “given”. Amendment of the assessment list with retrospective effect or “at any time” is separate and distinct from liability to pay tax or a higher tax. The liability to pay tax is only from the year in which notice under Section 126(2) of the Act is “given”. The proviso, therefore, protects the assessee and he is not liable to pay enhanced tax or tax pursuant to amendment in the assessment list with retrospective effect i.e. for the period prior to the financial year in which notice is “given”. Amendment of the assessment list can be made at any time by following the procedure prescribed.

22. Reliance placed upon the case of ***Shyam kishore*** (supra) by the respondents-assessee is misconceived. The said decision concerns Section 170 of the Act and is a ratio on the question whether an assessee is required to deposit tax before his appeal under Section 169 is heard. It was in that context that the provisions of Sections 124-129 of the Act were examined and summarised as the Supreme Court also dealt with the question whether taxes were to be paid for the base year or for later years also. The question with reference to proviso to Section 126(1) of the Act and whether a notice for enhancement served after end of the financial year was never gone into and

examined. A decision is binding on the question which is actually decided and is not a ratio for issues that did not arise for consideration or were not the subject matter of the decision. Decisions or reasoning given by the High Courts and the Supreme Court are not to be read as statutes. (Refer, ***CIT versus Sun Engineering*** reported in (1992) 4 SCC 363 and ***ICICI Bank versus Municipal Corporation of Greater Bombay*** reported in (2005) 6 SCC 404 and also ***State of Orissa versus Mohd. Illyas*** reported in (2006) 1 SCC 275)

23. Moreover, in the present case, notice under Section 126(1) specifically stated as under :-

“ As per proviso to sub-section (1) of Section 126 of the DMC Act, you shall not be liable to pay any tax or increase in tax, due to the amendment in the assessment list, for any period prior to the first day of the financial year in which notice is given. Thus if you receive this notice upto 31-3-99, please pay taxes from 1-4-98 and if you receive this notice on or after 1-4-99, please pay from 1-4-1999.”

24. Thus, it was made clear to the respondents-assessee that in case notice was served after the end of the financial year, it would be valid and operative for the period after 1st day of April, of the financial year in which the notice was given. In the second sentence, an example has been quoted to clarify the position. The notice in the present case therefore is effective from 1st April, 2000 and MCD will be entitled to ask for tax on the enhanced rateable value w.e.f. 1st April, 2000 onwards.

25. In view of the above, the present Writ Petitions are allowed to the extent indicated above. For the purpose of proviso to Section 126(1) of the Act, the notice is effective and valid w.e.f. 1st April, 2000 and MCD is entitled to enhanced tax on the rateable value from the said date. The matter is, however, remanded back to the District Judge/Appellate Tribunal for decision on merits and on other grounds of appeal raised by the respondents-assessee. Parties will appear before the District Judge/Appellate Tribunal on 22nd April, 2008_when further date of hearing will be given. As this is an old matter, District Judge/Appellate Tribunal will hear and dispose of the matter expeditiously and preferably within six months from the first date of hearing. No costs.

(SANJIV KHANNA)

JUDGE

APRIL 01 , 2008.

P/VKR