

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

+ W.P.(C) 20086/2004

Date of decision : 5th February, 2008.

P.C.CHANDAN

..... Petitioner

Through Ms.Mala Goel, Adv.

versus

N.D.M.C.

..... Respondent

Through Mr.Arjun Pant, Adv.

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

ORDER

% 05.02.2008

1. Rule. With the consent of the parties, the matter is taken up for hearing.

2. The petitioner has impugned advertisement tax demand of Rs.25,898.25 for the period 1st October, 1993 to 21st March, 1996. The demand was raised in the year 1996.
3. The petitioner initially challenged the demand by filing a Civil Suit, which was dismissed on the ground of lack of jurisdiction as the New Delhi Municipal Act, 1994 has a specific statutory remedy by way of an appeal. Thereafter the petitioner had filed a statutory appeal but the same was dismissed by order dated 3rd September, 2004 as barred by limitation and as the petitioner had not filed any application for condonation of delay. It may be relevant to state here that the petitioner had admitted before the statutory Appellate Authority that the impugned demand was raised on 5th January, 1999.
4. The Appellate Authority had rightly dismissed the appeal as barred by limitation as the petitioner had not filed any application for condonation of delay or even prayed that the time spent in the Civil Court should be excluded as conditions of Section 14 of the Limitation Act, 1963 are satisfied. Without any application for condonation of delay, the delay in filing the appeal could not have been condoned under Section 117 of the New Delhi Municipal Council Act, 1994.
5. Even on merits, I do not think the petitioner has been able to make out a case. It is admitted that the petitioner had in fact advertised his Coaching Centre on non-illuminated tin plates. The petitioner has paid advertisement tax till 30.9.1993. Demand in question pertains to the period thereafter from 01.10.1993 till 21.3.1996. There is no document on record to prove and establish that the

petitioner had at any time during the period from 01.10.1993 till 21.3.1996 informed NDMC that he had stopped advertising and had withdrawn the non-illuminated tin plates. Demand for the period prior to 01.10.1993 was paid only on 8th March, 1996.

6. Some letters (Annexures P-3 and P-4) relied upon by the petitioner have been disputed by the respondent as bogus and fabricated documents. There is no proof that these letters were duly served and received by the respondent counsel. It is well known that UPC receipts can be procured. The only letter available on record is an undated letter, which was received in the office of Municipal Council on 16.3.1996. The Municipal Council thereafter inspected the area in question and found that advertisements have been removed. Accordingly, Advertisement Tax has not been levied after 21.3.1993.
7. The writ petition has no merit and is liable to be dismissed.
8. The petitioner is however, given two months time to make payment to NDMC, failing which the respondent will be entitled to recover the tax amount in accordance with law. No costs.

SANJIV KHANNA,J

FEBRUARY 05, 2008

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