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* IN THE HIGH COURT OF DELHI AT NEW DELHI

R-25.

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W.P.(C) No. 10245 of 2009

VARDHMAN PROPERTIES LTD. Petitioner
Through: Mr. Sanjay Goswami and Mr. H.K.
Balaji, Advocates.

Versus

COLLECTOR OF STAMPS & ORS. Respondents
Through: None.

AND

R-26.

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W.P.(C) No. 10246 of 2009

VARDHMAN PROPERTIES LTD. Petitioner
Through: Mr. Sanjay Goswami and Mr. H.K.
Balaji, Advocates.

Versus

COLLECTOR OF STAMPS & ORS. Respondents
Through: None.

CORAM: JUSTICE S. MURALIDHAR

ORDER

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05.10.2010

1. Both these writ petitions, by the same Petitioner, challenge certificates dated 2nd March 2009 issued by the Respondent No.1 determining the transfer duty payable on the two perpetual leases granted to the Petitioner in

Signature Not Verified

Digitally Signed By: AMULYA

Certify that the digital file and physical file have been compared and the digital data is as per the physical file and no page is missing.

Respect of two plots at the Bawana Industrial Complex.

W.P.(C) Nos. 10245 & 10246 of 2009

2. The Petitioner has relied upon the judgment of learned Single Judge of this Court in *Vardhman Properties Ltd. v. Collector of Stamps, Delhi 2007 AIR (Delhi) 214* which held that “the transfer duty has to be computed on the basis of 1/6th of the rent payable at present for the first 30 years period but computed for the first 50 years.” The Division Bench of this Court in *Municipal Corporation of Delhi v. N. K. Gupta 151 (2008) DLT 505 (DB)* while affirming the decision of the learned Single Judge held that the word ‘rent’ in Section 147(2)(b)(v) of the Delhi Municipal Corporation Act, 1957 would not include the premium paid for the lease. Although against the said judgment of the Division Bench appeals are stated to have been filed in the Supreme Court by the MCD, which are pending, there is admittedly no interim order passed by the Supreme Court staying the operation of the said judgment of the Division Bench.

3. Having heard learned counsel for the Petitioner this Court is of the view that both the writ petitions are fully covered by the decision of the Division Bench in *Municipal Corporation of Delhi v. N. K. Gupta*. Consequently, the certificates dated 2nd March 2009 issued by Respondent No.1 in each writ petition is hereby quashed. Since the demands raised in terms of the impugned certificate have been paid by the Petitioners under protest, it is directed that the Respondents will recalculate the transfer duty payable in terms of the above judgment of this Court and refund the balance amount to the Petitioners within a period of eight weeks together with simple interest at the rate of 6% per annum from the date of filing of the writ petitions i.e. 18th July 2009 till the date of payment.

4. The writ petitions are accordingly allowed.



S. MURALIDHAR, J

OCTOBER 05, 2010

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