

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

12.

+ W.P.(C) 11416/2005

SUMAN BHAGAT

..... Petitioner

Through: Mr. R.P. Sharma, Adv.

versus

M.C.D. & ORS.

..... Respondent

Through: Ms. Amita Gupta, Adv.

+ W.P.(C) 6824/2007

13.

SUMAN BHAGAT & ORS

..... Petitioners

Through: Mr. R.P. Sharma, Adv.

versus

M.C.D

..... Respondent

Through: Ms. Amita Gupta, Adv.

+ W.P.(C) 4050/2006

14.

D.C.CHADHA

..... Petitioner

Through: Mr. R.P. Sharma, Adv.

versus

M.C.D

..... Respondent

Through: Ms. Maninder Acharya, Adv.

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

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**05.07.2012**

*W.P.(C) 11416/2005, 6824/2007, 4050/2006*

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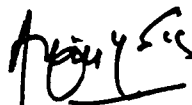
1. It could not be disputed by learned counsels for the MCD that the matter in issue in all these petitions is squarely covered by the Division Bench decision of this Court in ***MCD v. Major General Inderpal Singh Kahai & Anr***, 169 (2010) DLT 352 (DB). As per that judgment, option under Section 116-G (2) of the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as 'the Act') is available to the assessee even when the assessment has been finalized by the assessing officer but the statutory appeal thereagainst is pending. The Division Bench has held, that the pendency of such an appeal would amount to the assessment having not been finalized and it gives discretion to the assessee to exercise his option to be governed by the new provisions, as permitted under Section 116-G (2) of the Act.

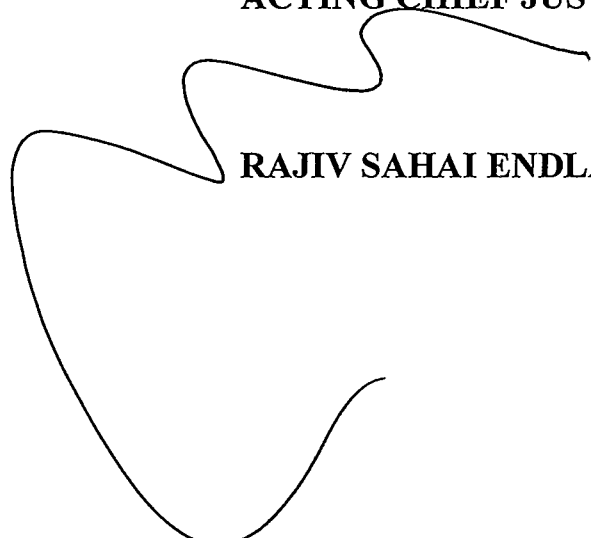
2. Learned counsels for the respondent MCD however state that Special Leave Petition against the aforesaid judgment in the case of ***Inderpal Singh Kahai*** (supra) has been filed which has since been granted and appeal is pending before the Supreme Court. They however concede that the Supreme Court has not granted stay of the operation of the aforesaid judgment in ***Inderpal Singh Kahai*** (supra).

3. In view thereof, as of today, there is no impediment in following the aforesaid judgment of the Division Bench which binds a coordinate bench. At the same time, in order to obviate the MCD from taking the trouble of filing the appeals in all these cases as well, it is agreed by learned counsel for the petitioners that in case the Division Bench judgment of this Court in ***Inderpal Singh Kahai*** (supra) is reversed by the Supreme Court, the decision rendered therein shall bind all these petitioners as well.

4. Thus, these writ petitions are allowed holding that the option exercised by the petitioners under Section 116-G (2) of the Act are permissible and the fresh assessment would be done by the MCD on the basis of these options, within three months from the date of decision of the Supreme Court. It is again made clear that the outcome of the appeal pending before the Supreme Court shall govern the cases of the petitioners as well.

The writ petitions are disposed of accordingly.

  
ACTING CHIEF JUSTICE

  
RAJIV SAHAI ENDLAW, J

JULY 05, 2012  
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