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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 17th August 2026*# **CNR No. DLHC010715762015**+ **W.P.(C) 1665/2015****INDIAN OIL CORPORATION LTD.** PetitionerThrough: Mr. Saran Suri, Ms. Ruchi Jain and
Mr. Nagashree Sharma, Advocates.

versus

DELHI CANTONMENT BOARD RespondentThrough: Mr. Ankur Mishra, Advocate
(through VC)**CORAM:****HON'BLE MR. JUSTICE AMIT BANSAL****AMIT BANSAL, J. (Oral)**

1. The present writ petition has been filed seeking the following reliefs:

*"A. Call for the Records;**B. Issue writ of mandamus or other appropriate writ(s) quashing assessment order dated 29.8.2014 passed by the respondent;**C. Issue writ of mandamus or other appropriate writ commanding the respondent not to raise any demand upon the petitioner for the period 1995-96 and thereafter pursuant to assessment order dated 29.08.2014;**D. Issue writ of mandamus or other appropriate writ commanding the respondent to determine the assessment in accordance with the provisions of Delhi Rent Control Act, 1958;**E. Issue writ of mandamus or other appropriate writ quashing demand if any raised by the respondent pursuant to the assessment order dated 29.8.2014;**F. Issue writ of mandamus or other appropriate writ quashing any demand raised by the respondent not consistent with the provisions of*



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Assessment List for the period in dispute;

G. Issue writ of mandamus or other appropriate writ quashing the assessment list for the year 1996-97 which was authenticated on 30.3.1998 and”

2. The grievance of the petitioner is that the respondent/Delhi Cantonment Board (hereinafter ‘DCB’), by the impugned assessment order dated 29th August 2014, illegally determined the rateable value of the petitioner's Aviation Fuel Station at Rs. 1,77,49,299/-, retrospectively from the year 1995–96 without following the prescribed statutory procedure.

3. Brief facts necessary for deciding the present petition are as follows:

3.1. The petitioner, Indian Oil Corporation Limited, is a Government Company engaged in, inter alia, the storage and supply of aviation fuel through an Aviation Fuel Station situated at *Palam, Delhi Cantonment*.

3.2. The subject property comprises land which was given on license to the petitioner by an Agreement dated 5th November 1962. The licence was subsequently renewed in the year 1988.

3.3. On 20th June, 1996, the respondent/DCB issued a notice to the petitioner under Section 68 of the Cantonments Act, 1924, proposing the assessment list for the triennial period 1995-96 to 1997-98 by fixing the annual rateable value (hereinafter ‘ARV’) of the property at Rs.53,30,379/-. Subsequently, by communication dated 2nd August, 1996, the respondent revised the proposed ARV to Rs.44,93,698/-, purportedly on the basis of rates communicated by the Defence Estate Officer.

3.4. The petitioner filed detailed objections on 26th July, 1996, 28th August, 1996 and 1st February, 1997, disputing the proposed assessment as being contrary to the statutory provisions governing preparation and revision



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of assessment lists and also objecting to the methodology adopted for determining ARV.

3.5. Since no final speaking order came to be passed and demands continued to be raised, the petitioner instituted W.P.(C) 7093/2000, which was disposed of by this Court on 8th November, 2011, directing DCB to reassess the petitioner's liability and pass a reasoned order.

3.6. Instead of granting a hearing, the respondent, *vide* reply dated 7th February, 2014, informed the petitioner that objections filed by the petitioner stood disposed of and ARV of Rs.53,30,739/- stood confirmed from 31st March, 1996 onwards.

3.7. Thereafter, the petitioner preferred W.P.(C) 3594/2014 challenging the aforesaid reply dated 7th February 2014. The said petition was disposed of on 9th July, 2014, directing DCB to afford a personal hearing and pass a speaking order.

3.8. Pursuant thereto, the respondent/DCB passed the impugned Assessment Order dated 29th August, 2014 whereby the ARV was fixed at Rs.1,77,49,299/-.

4. Aggrieved by the aforesaid impugned order, the present writ petition has been filed. It is contended that although the respondent purported to rectify only "arithmetical errors", the impugned order completely altered the basis and methodology of assessment after almost eighteen years, resulting in enhancement of ARV without issuance of any fresh notice or affording the petitioner an opportunity to object to the revised methodology. It is averred that the respondent retrospectively amended the assessment list without complying with the mandatory procedure prescribed under Sections 66 to 72 of the Cantonments Act, 1924 (Sections 75 to 81 under the



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Cantonments Act of 2006) relating to preparation, publication, consideration of objections and authentication of the assessment list.

5. Notice in the present writ petition was issued *vide* order dated 24th February 2015.

6. *Vide* order dated 24th February 2015, the operation of the impugned order was stayed. The petitioner was directed to continue to pay the admitted liability during the pendency of the writ petition on the basis of the principle of cost of construction and cost of land as on the date of construction and recovery of the balance amount was stayed.

7. In the counter affidavit filed on behalf of the respondent/DCB, it is stated that as follows:

- i. The present writ petition is not maintainable on account of an alternate statutory remedy under the Cantonments Act, 2006.
 - ii. The impugned assessment has been carried out in accordance with the provisions of the Cantonments Act and the applicable Government guidelines.
 - iii. In compliance with the order dated 9th July 2014 passed by this Court in W.P.(C) 3594/2014, a personal hearing was granted to the petitioner and the objections raised by the representatives of the petitioner were considered in detail. The assessment order dated 29th August 2014 has been passed after consideration of the oral/written submissions of the petitioner. The principles of natural justice have been duly complied with by the respondent/DCB.
8. Mr. Ankit Jain, senior counsel for the respondent, objects to the maintainability of the present writ petition. The petitioner has bypassed the statutory remedy of appeal as prescribed under Sections 93 and 96 of the



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Cantonments Act, 2006 (hereinafter 'Act'), to escape the requirement of mandatory pre-deposit of the property tax. He further submits that the appropriate remedy for the petitioner would be to file a statutory appeal before the Municipal Tax Tribunal.

9. Mr. Suri, counsel for the petitioner, counters the aforesaid submission by submitting that in the present case, in terms of the notice issued by the respondent on 20th June, 1996, ARV was proposed at Rs. 53,30,739/-. He further submits that *vide* communication dated 2nd August, 1996, the rateable value was fixed at Rs. 44,44,698/-. However, the impugned assessment order fixed the same arbitrarily at Rs.1,77,49,299/-. Without any further notice under Section 76 or 79 of the Cantonments Act, 2006, seeking to revise the said rateable value, the rateable value has been revised by the respondent/DCB.

10. I have heard counsel for the parties.

11. The genesis of the dispute lies in the notice dated 20th June, 1996, issued under Section 68(1) of the Cantonment Act, 1924, wherein the assessment list for the year 1995-98 was proposed to be fixed at an ARV of Rs.53,30,739.00 in respect of the subject property. Upon the petitioner raising objections, ARV was worked out at Rs.44,43,698/- by the respondent *vide* letter dated 2nd August 1996. However, by the impugned order dated 29th August 2014, the respondent has fixed the ARV at Rs. Rs.1,77,49,299/- for the year 1995-96.

12. The aforesaid course adopted by the respondent suffers from manifest infirmity. If the respondent intended to enhance the ARV beyond the figure of Rs.53,30,739.00, it was incumbent upon the respondent to issue a fresh notice setting out the proposed enhancement and the basis on which such



enhancement was sought to be made. The requirement of notice is intended to afford the assessee an effective opportunity to object to both the basis and the quantum of the proposed assessment. In the present case, no such notice proposing an ARV of Rs.1,77,49,299/- was issued to the petitioner.

13. A reference may be made to Section 79 of the Cantonments Act, 2006, which is set out below:

“79. Amendment of assessment list.—(1) The Chief Executive Officer may after obtaining the approval of President Cantonment Board amend the assessment list at any time—

(a) ...

(b) ...

(c) by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake whether on the part of administration or assessee; or

(d) by revaluing or re-assessing any property the value of which has been increased; or

(e) ...

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 assessment is made.

(2) Before making any amendment under sub-section (1) the Chief Executive Officer shall give to any person affected by the amendment, notice of not less than one month that he proposes to make the amendment.

(3) Any person interested in any such amendment may tender an objection to the Chief Executive Officer in writing before the time fixed in the notice, and shall be allowed an opportunity of being heard in support of the same in person or by authorised agent.”

[Emphasis Supplied]

14. A reading of the aforesaid provision empowers the Chief Executive Officer, with the approval of the President, Cantonment Board, to amend the



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assessment list, inter alia, where a property has been erroneously valued or assessed through fraud, accident or mistake or where the value of a property has increased. However, the proviso to Section 79(1) expressly stipulates that no person shall, by reason of 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 assessment is made. Further, sub-sections (2) and (3) mandate that, before effecting any such amendment, the person affected is to be given notice of not less than one month of the proposed amendment and an opportunity to tender objections and to be heard in support thereof. The statutory scheme, therefore, does not permit an enhancement of the assessment without prior notice of the proposed enhancement.

15. The respondent passed the impugned assessment order and a perusal thereof would reveal that instead of maintaining the assessment as proposed by way of notice dated 20th June, 1996 at an ARV of Rs.53,30,739/- the respondent *suo moto* enhanced ARV to Rs. 1,77,49,799/- without giving fresh notice. Since the notice was for the proposed rateable value of Rs.53,30,739/- the respondent could not have enhanced the assessment to Rs. 1,77,49,799/-.

16. It is relevant to note the position taken by the respondent in the earlier round of litigation before this Court in W.P.(C) 7093/2000, which was disposed of *vide* judgment dated 8th November, 2011. Paragraph 20 of the said judgment is set out below:

“20. Learned counsel for the petitioner points out, and in my view correctly so, that the said notices fixing dates for personal hearing were of no avail as the respondent had already passed the order of assessment on 16.09.1996 after giving the basis on which the respondent had made the assessment. The categorical stand of the respondent was that the proposed assessment to the tune of Rs.44,43,698/- has been worked out



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correctly. The admitted position is that there is no other assessment order passed by the respondent which may have been communicated to the petitioner or which may have been existing on the respondent's file.”

[Emphasis Supplied.]

17. Thus, the stand taken by the respondent before this Court in the earlier round was that the assessment at Rs.44,43,698/- had been correctly worked out. The subsequent proceedings were required to be undertaken pursuant to the directions of this Court for reassessment of the petitioner's liability, after granting an opportunity of hearing and passing a reasoned order. However, this would not enable the respondent to unilaterally enhance the ARV from what was stated in the notice under Section 68(1) of the Cantonment Act, 1924.

18. In the subsequent proceedings, the petitioner was admittedly afforded a personal hearing, after which the impugned order was passed. The material circumstance which cannot be lost sight of is that the respondent had categorically maintained, in the earlier proceedings before this Court, that the ARV of Rs.44,43,698/- had been correctly worked out.

19. To be noted, immediately prior to the passing of the impugned Assessment Order, the respondent's own stand was that the property stood assessed at an ARV of Rs.53,30,739/- with effect from 1995-96. In this regard, a reference may be made to the communication dated 7th February, 2014 sent by the respondent in response to the legal notice issued by the petitioner:

“10. That, as such, the property is assessed to tax at annual rateable value of Rs. 53 lakh 30,739 from the year 1995-96 onwards. You are liable to pay tax on the said value from the aforesaid year until date.”



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20. In the impugned Assessment Order, however, the respondent has departed from the aforesaid position and has determined the ARV at Rs.1,77,49,299/-, which is more than three times the figure proposed in the notice under Section 68(1) of the Cantonment Act, 1924.

21. The respondent's contention that the impugned order merely rectifies an “arithmetical error” does not explain the substantial enhancement in the ARV or the change in the methodology adopted for arriving at the valuation. The petitioner has specifically contended that the aforesaid enhancement was not a mere correction of an arithmetical error. According to the petitioner, the respondent has adopted a substantially different methodology for determining the value of the land and, on that basis, arrived at the enhanced ARV.

22. As regards the respondent's submission with respect to the maintainability of the present writ petition, it is a settled position that the existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution of India. Reference in this regard may be made to the judgment dated 3rd September, 2021 passed by the Supreme Court in Civil Appeal No. 5121/2021 titled '***The Assistant Commissioner of State Tax v. Commercial Steel Limited***'. The relevant extract from the said judgment is set out below:

“11. The respondent had a statutory remedy under section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is:



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- (i) a breach of fundamental rights;
(ii) a violation of the principles of natural justice;
(iii) an excess of jurisdiction; or
(iv) a challenge to the vires of the statute or delegated legislation.”
[Emphasis Supplied.]

23. A reference may also be made to the judgment of this Court in ***Ramditti Jiwandaram Narang Public Charitable Trust v. Municipal Corporation of Delhi***¹ wherein it was held that the existence of a statutory appeal would not necessarily preclude exercise of the extraordinary jurisdiction of this Court where the legal correctness and jurisdictional validity of the assessment itself is under challenge.

24. In the present case, as discussed above, the impugned assessment order has been passed clearly without jurisdiction as the ARV has been enhanced without giving any notice to the petitioner, which is against the mandate of the statute and in violation of the principles of natural justice.

25. Accordingly, the impugned assessment order dated 29th August, 2014 is hereby quashed. Consequently, any demand raised by the respondent upon the petitioner pursuant to the impugned assessment order shall cease to have effect and shall not be enforced by the respondent.

26. It would be open for the respondent to pass a fresh Assessment Order for the period in question in accordance with law and after giving hearing to the petitioner.

AMIT BANSAL, J

AUGUST 17, 2026
at

¹ 2004 SCC OnLine Del 264.