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

\+ W.P.(C) 1813/2016

HSS REAL ESTATE PRIVATE LIMITED ..... Petitioner

Through: Ms. Neelima Tripathi, Adv.

Versus

NEW DELHI MUNICIPAL COUNCIL ..... Respondent

Through: Mr. Arjun Mitra & Mr. Abhishek Misra, Advs.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

O R D E R

% **02.03.2016**

CM No.7794/2016 (for exemption)

1. Allowed, subject to just exceptions.

2. The application is disposed of.

W.P.(C) 1813/2016 & CM No.7793/2016 (for stay)

3. The petition impugns the order dated 10th December, 2014 of the Assessing Authority of the respondent New Delhi Municipal Council (NDMC) assessing the rateable value of property No.22, Amrita Shergill Marg, New Delhi of the petitioner with effect from 1st March, 2003 at Rs.2,55,30,975/- and with effect from 1st May, 2005 at Rs.63,66,980/- less 10%.

4. Though it is the contention of the counsel for the petitioner that the writ petition is maintainable since the impugned order has been made after

eleven years of the assessment years covered thereby and without giving an opportunity of hearing but since the matter would entail factual controversy, it is deemed appropriate to remit the parties to the remedy of appeal under Section 115 & 116 of the New Delhi Municipal Council Act, 1994 and to direct the said appeal to be considered on merits without going into the aspect of delay in filing thereof, since the petitioner had been representing with respect to the order dated 10th December, 2014 and the respondent NDMC has rejected the said representation only on 8th February, 2016.

5. The petition also impugns the warrant dated 11th January, 2016 issued by the respondent NDMC of monies lying in account of the petitioner with the Canara Bank, Corporate Branch, New Delhi to the extent of Rs.2,06,53,815/-. However the counsel for the petitioner is unable to inform what are the monies lying in the said account which have been attached.

6. The counsel for the respondent NDMC appears on advance notice and has also been heard.

7. After hearing the counsels this petition is disposed of with the following directions:

(i) subject to the petitioner preferring appeal impugning the order dated 10th December, 2014 on or before 23rd March, 2016, the same shall be considered by the Appellate Authority without going into the aspect of limitation;

(ii) the petitioner shall be entitled to file fresh documents in support of its appeal / the contentions therein;

(iii) the direction for pre-deposit shall be made after taking into account the amounts already deposited by the petitioner towards property tax for the subject years and the amount attached from the account aforesaid of the petitioner and after taking into consideration the hardship if any made out by the petitioner;

(iv) an endeavour shall be made to dispose of the appeal as soon as possible, considering that the assessment is already delayed by 13 years;

(v) the attachment of the account shall be removed after whatever monies are standing therein have been remitted to the respondent NDMC.

No costs.

Dasti under signature of Court Master.

RAJIV SAHAI ENDLAW, J

MARCH 02, 2016
'gsr'..