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

\+ W.P.(C) 4564/2015

M/S. ANANT ARTS

..... Petitioner

Through Mr. Anand Mishra, Mr. Hemant Kumar and Ms. Utkarsha Tripathi, Advs.

versus

NORTH DELHI MUNICIPAL CORPORATION

..... Respondent

Through Ms.Mini Pushkarna, Ms.Vasundhra Nayyar, Ms. Mohila Yadav and Ms. Anushruti, Advs.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

O R D E R

% 29.09.2016

The prayer in the present petition is that the license fee charged by the respondent qua the petitioner be declared ultra vires in view of the order dated 18.11.2014 passed in W.P. (C) No.4436/2010 *Sports & Leisure Apparel Ltd. Vs MCD and Anr* wherein a similar issue has been decided.

Record of the present case shows that the present petition has been filed by the petitioner who is stated to be an outdoor advertiser with the respondent. His submission is that Section 143 of the Delhi Municipal Corporation Act does not permit the respondent to charge any license fee qua the display of advertisements by the petitioner on the property other than those of the respondent. Further averments in the petition disclose that on 24.09.2008, permission was granted to the petitioner for display of advertisements on commercial property bearing No.3455-65, Delhi Gate, New Delhi. This permission was continued in the year 2009. Another permission dated 24.05.2010 was granted to the petitioner for property bearing No. D-195 & 196, Mansarovar Garden, New Delhi. On 19.02.2013, the petitioner surrendered his building wraps permission qua property No. D-195 & 196, Mansarovar Garden, New Delhi. On 18.01.2013, the petitioner also surrendered his building wraps permission for property No..3455-65, Delhi Gate, New Delhi. Admittedly on 18.11.2014 when the judgment was delivered by a coordinate Bench of this Court in W.P. (C) No.4436/2010, there were no alive permissions which were with the petitioner; he had already surrendered his wraps permission which he had obtained earlier.

The counter affidavit filed by the respondent is premised on the ground that this writ petition is not maintainable as a retrospective application of a judgment declared in November, 2014 cannot accrue to the benefit of the applicant who admittedly had no permission at that prevailing point of time; the petitioner already having surrendered his permissions prior thereto. The second submission of the learned counsel for the respondent is that judgment in W.P. (C) No.4436/2010 delivered on 18.11.2014 even otherwise related to damages/charges in terms of the circular of the Department; that judgment did not relate to a charge of license fee.

Arguments have been heard. This Court is of the view that a judgment delivered on 18.11.2014 cannot have a retrospective application. The Circular seeking imposition of damages upon the petitioner in that case had been set aside as the Court was of the view that the damages/charges as contemplated in the said Circular were not a tax on advertisements as contemplated under Section 142 of the said Act. It had noted that Section 143 of the said Act prohibits advertisement without permission of the Commissioner; it did not provide for levy or imposition of a penalty in respect of an unauthorized advertisement. Apart from the fact that this judgment cannot have retrospective application, this Court is also of the view that the judgment delivered in W.P. (C) No.4436/2010 would not apply to the facts of the instant case. The instant case relate to levy of license fee which the petitioner was admittedly paying to the respondent Corporation till the time when he voluntary choose to surrender his permissions.

There is no merit in this writ petition. Dismissed.

INDERMEET KAUR, J

SEPTEMBER 29, 2016
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