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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 597/2016 & C.M.Nos.2421/2016, 2422/2016 & 5205/2016
SAI COMMUNICATION AND MARKETING PVT. LTD.

..... Petitioner

Through Mr. Arvind Singh, Adv.

versus

EAST DELHI MUNICIPAL CORPORATION & ORS

..... Respondents

Through Ms. Biji Rajesh and Mr. Amresh
Anand, Advs for EDMC

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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16.01.2017

Learned counsel for the respondent undertakes to deposit the cost with the Delhi High Court Legal Service Committee within two days.

The petitioner before this Court is a registered advertiser under the Outdoor Advertising Policy (OAP) of 2007 of the respondent/East Delhi Municipal Corporation (EDMC). He had been allotted an advertising site (wall wrap) at property No. B-1, Veer Savarkar Block, Madhuban Chowk, Vikas Marg, Shakarpur, Delhi and a letter dated 02.06.2011 had been issued to him for the said purpose. He was regularly paying his license fee. On 18.11.2014, a judgment had been pronounced by a Single Bench of this court in W.P. (C) No.4436/2010 Sports Leisure Apparel Limited Vs. MCD. The license fee imposed by the respondent on advertisers including the petitioner was set aside. A clarification application had also been decided by the same Bench by a subsequent order dated 15.12.2014 wherein it

was clarified that the respondent/Corporation are not at liberty to raise any charge other than those in accordance with law and the license fee was one such charge which was not payable by a party to the respondent.

Learned counsel for the petitioner submits that in view of the aforementioned pronouncement by the Bench of this Court, the order passed by the Corporation (now impugned dated 08.01.2016) suffers from an infirmity. This order has been premised largely on the submission of the respondent that the petitioner has not paid license fee and this is clear from para 2 of the aforementioned order. This Court notes that by the order dated 08.01.2016 (now impugned), the respondent had made a demand of Rs.14,81,107/- as license fee charges (including interest) from the petitioner and because of this non-deposit, it had led to cancellation of his advertisement site.

Contention of the petitioner is that this order is beyond the parameters of law.

Learned counsel for the respondent has filed a counter affidavit. Her submission is that the order passed by the Single Bench in Sports Leisure (supra) has been the subject matter of challenge before the Apex Court and the petition filed by the Department is yet pending before the Apex Court. Admittedly, there is no stay of the judgment passed by the Single Bench.

In this view of the matter, this Court is of the view that the law as on date is that the license fee is not to be charged by the respondent from the petitioner for displaying the wall wrap advertisement. The impugned order (dated 08.01.2016) which is premised only on this i.e.

non-deposit of license fee by the petitioner is accordingly set aside.

At this stage, learned counsel for the petitioner submits that he would be giving up his prayer No. 4 which is a refund of license fee which already stands deposited with the Department. This submission of the petitioner is also taken on record.

The impugned order having been set aside, permission now be granted to the petitioner to display his wall wrap advertisements on his complying with all the necessary formalities.

Petition disposed of.

Order be given dasti under signatures of the Court Master.

INDERMEET KAUR, J

JANUARY 16, 2017

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