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

+ **W.P.(C) 484/2017 & CMs 2216-17/2017**

BHARAT HOTELS LTD AND ANR Petitioner

Through: Mr. P.V. Kapur, Senior Advocate,
Mr. Saurabh Kirpal, Mrs. Sonail Jaitley,
Mr. Jaiyesh Bakhshi, Ms. Sanya Kapoor,
Mr. Sidhant Kapur, Ms. Ranjanan Jaitley,
Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL Respondent

Through: Mr. Sanjay Jain, ASG,
Mr. Arjun Mitra, Mr. Rajul Jain,
Ms. Jaskaran Kaur, Ms. Adrija Thakur, Advocates
with Mr. Alok Bhatnagar, Head Assistant.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% **18.01.2017**

1. The petitioners are aggrieved by the provisional demands dated 1.12.2016 and 2.1.2017 raised on them by the respondent/NDMC towards licence fee for the months of December, 2016 and January, 2017.
2. By the impugned bill dated 1.12.2016, the respondent/NDMC has provisionally demanded a sum of Rs.4,40,00,000/- from the petitioners towards licence fee stated to be payable for the month of December, 2016 along with arrears, totalling to a sum of Rs.1,98,77,73,511/-. By the impugned bill dated 2.1.2017, while maintaining the monthly licence fee @ Rs.4,40,00,000/- for the month of January, 2017, the respondent/NDMC has added the arrears and raised a net bill of Rs.2,05,93,37,697/-.
3. Mr. P.V. Kapur, learned Senior Advocate appearing for the petitioners

submits that on receiving the provisional Bill for the month of December, 2016, the petitioner had submitted a representation dated 16.12.2016 to the respondent/NDMC requesting that they be furnished the basis of the calculation. Though the said letter was duly received on the very same date, the respondent/NDMC has failed to reply thereto and instead, proceeded to issue a second provisional bill for the month of January, 2017. He submits that the annual licence fee of the subject commercial complex for the year 2016-17 (commencing from December, 2016 and ending in November, 2017) was calculated @ Rs.1,45,00,000/-, an amount that is being deposited annually by the petitioners and this sum has already been deposited with the respondent/NDMC.

4. Mr. Sanjay Jain, learned ASG appearing for the respondent/NDMC states, on instructions, that the impugned provisional bills have been raised by the NDMC in terms of Clause 48 of the Licence Deed and as per law.

5. The documents placed on records reveal that a Licence Deed dated 22.4.1982 was executed between the petitioners and the respondent/NDMC in respect of the subject commercial complex which contemplates two renewals at the end of 33 years, after a gap of 33 years each. The renewal at the end of the first block of 33 years, was due in the year 2014. As a result, the respondent/NDMC ought to have raised a demand towards enhanced licence fee for the year 2014-15, in or around the months of November/December, 2014. But it has taken two years for the respondent/NDMC to wake up to fact that it was entitled to claim an enhancement in the licence fee on the expiry of the first block of 33 years. The impugned bills that have been raised now, are still provisional.

6. It would be appropriate that instead of raising provisional bills, final

bills are raised by the respondent/NDMC on the petitioners so that they know as to where exactly do they stand. If the petitioners are aggrieved by the final demands that may be raised by the respondent/NDMC, they shall be at liberty to seek their remedies against the same in accordance with law.

7. The impugned provisional bills are accordingly quashed and set aside, with directions issued to the respondent/NDMC to raise fresh bills towards the enhanced licence fee on the petitioners, as expeditiously as is possible. While issuing the said bills, the basis of making the calculation shall be spelt out.

8. It is made clear that this order shall not be construed as an expression on the merits of the case which the court has not examined. If a fresh grievance is raised by the petitioners in the future, the parties shall be at liberty to take all the pleas that may be available to them both on facts and in law.

9. The petition is disposed of, along with the pending applications.

HIMA KOHLI, J

JANUARY 18, 2017

sk/ap