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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1053/2016

SALWAN EDUCATION TRUST AND ANR.

..... Petitioners

Through: Mr. B. B. Jain with Mr. Amitabh
Marwah, Advocates.

versus

EAST DELHI MUNICIPAL CORPORATION
AND ORS.

..... Respondents

Through: Mr. Shlok Chandra and Mr. Pawan
Kumar, Advocates for EDMC.

Mr. Praveen Kumar Jain with Mr. Amit Dogra,
Advocates for Respondent No.3.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE CHANDER SHEKHAR

ORDER

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19.05.2017

CM No. 8340/2017 (for condonation of delay of 122 days in filing the petition)

1. For the reasons stated in the application, the delay of 122 days in filing the petition is condoned.

2. The application is disposed of.

CM No. 8341/2017 (for condonation of delay of 10 days in re-filing the petition)

3. For the reasons stated in the application, the delay of 10 days in re-filing the petition is condoned.

4. The application is disposed of.

W.P.(C) 1053/2016 & CM No. 4584/2016 (for stay)

5. The challenge in this petition is to the communications dated 11th November, 2010 (Annexure-D), 23rd July, 2012 (Annexure-E), 22nd August, 2012 (Annexure-G), 17th October, 2012 (Annexure -I), 29th July, 2013 (Annexure-0), 28th May, 2015 (Annexure-Q), 26th August, 2015 (Annexure-S) 15th January, 2016 (Annexure-Y) issued by the Respondent No.2 to the Petitioner. The last of the communication seeks to enforce a demand of Rs.70,96,472.

6. The fact of the matter is that there was no assessment order passed in respect of the Petitioner and this came to light when on the first date of hearing of this petition the Court had enquired of Superintendent, Circle-EDMC/HQ present in Court about this and he confirmed that “as of date no order of assessment has been passed qua either Petitioner No. 1 or Petitioner No.2.” In those circumstances, the Court on that date directed that “no coercive measures will be taken against the Petitioners pursuant to the communications that have been challenged in this petition.”

7. Although the records have been brought to the Court, the fact remains that till date there is no assessment order qua Petitioner No.1 and Petitioner No.2. Learned counsel for the Petitioners submits that the question of enforcing any demand without there being any assessment order does not arise. Learned counsel for the Respondents assures that if time bound directions are issued in this regard it will be complied with.

8. Leaving all the contentions of the parties open to be dealt with by the Assessing Officer ('AO'), the Court directs that the Petitioners will appear before the AO on 5th June, 2017 at 3 pm. The name and designation of the AO will be communicated by learned counsel for the Respondent No.1 to learned counsel for the Petitioners not later than one week from today. The assessment proceedings will be completed not later than two months thereafter. All the pleas of the Petitioners will be considered and a reasoned order will be passed by the AO and communicated to the Petitioners not later than three months from that date.

9. The demand raised by letter at Annexure-Y is hereby set aside. No coercive steps will be taken against the Petitioners till the completion of the assessment proceedings and the passing of the assessment order as directed by the Court.

10. The petition and the application are disposed of in the above terms.

S. MURALIDHAR, J

CHANDER SHEKHAR, J

MAY 19, 2017

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