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

\+ W.P. (C) 2392/2017, CM APPL.10325/2017

M/S GODFREY PHILLIPS INDIA LIMITED ..... Petitioner

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

versus

NEW DELHI MUNICIPAL COUNCIL & ORS ..... Respondents

Through: Mr. Arjun Mitra, Advocate for Resp-1/NDMC with Mr. Abhishek Mishra and Ms. Jaskaran Kaur, Advocates.

Mr. Bhagwan Swarup Shukla, CGSC for Resp-2/UOI with Mr. Shambhu Chaturvedi, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% **21.03.2017**

The petitioner is aggrieved with respect to an assessment order dated 07.12.2016 and a consequential demand for ₹98,68,540/-. It complains that as the new owner/subsequent occupant of the premises, i.e., Shop No.15, Regal Building, New Delhi, it could not be held liable for the period that it was neither the occupant nor had title to that property, i.e., prior to 12.10.2012.

The NDMC urges that a notice has been issued prior to the assessment - in fact on 31.03.2007 and in the circumstances, the final assessment made on 07.12.2016 is justified in law. It is further highlighted that in the event the petitioner has any grievance with respect to the fixation of assessable value or the procedure adopted in that regard, it has an alternative remedy by way of an appeal to the Tribunal which it needs to avail.

This Court has considered the submissions. It is quite evident that the impugned order casts heavy liability upon the petitioner. In that, revaluation of the fresh fixation of the rateable value was done over ten years. This has resulted in a large demand of ₹98,68,540/-. The matter is further compounded in the circumstance that the petitioner is not the owner of the two premises - the subject matter of another assessment, i.e., shop nos.14 and 15; rather it only claims to occupy shop no.15. Having regard to these circumstances, the Court is of the opinion that the petitioner should be provided some relief whilst relegating it to the normal alternative statutory remedy.

In the circumstances, the petitioner is hereby required to deposit the tax for the first base year, i.e., 2006-07 provided that the breakup in respect of the liability for shop no.15 is given to it by the NDMC within two weeks from today. Upon receipt of such breakup, the tax arrears for the base year 2006-07 shall be deposited with the respondent within a week of intimation in that regard by the NDMC. The petitioner is also at liberty to approach the appellate Tribunal/ADJ empowered to hear appeals from orders of the AO. In case such an appeal is preferred within thirty days, the same shall be decided in accordance with law without reference to the limitation provided for appeals. At the same time, it is clarified that the Appellate Court/Tribunal should consider all contentions urged by the parties including the petitioner's objections to its liability, the procedure adopted in the finalisation of the assessment, etc.

In the light of the above directions, learned counsel for the petitioner does not press the other reliefs sought. The respondents are directed not to recover the balance (tax arrears for AY 2007-08 onwards) till final disposal of the petitioner's appeal by the Tribunal.

In view of the above, learned counsel does not press the relief (C).

The writ petition is disposed off in the above terms.

Order dasti.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

MARCH 21, 2017
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