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

\+ W.P.(C) 2990/2015 & C.M. No. 5349/2015

ANSAL HOUSING AND CONSTRUCTION LTD.

..... Petitioner

Through Mr. Sachin Datta, Senior Advocate with Mr. Amit Mahajan, Mr. Tapas Tyagi and Mr. Aaditya Vijay Kumar, Advocates

versus

SOUTH DELHI MUNICIPAL CORPORATION

..... Respondent

Through Mr. Prasanta Varma, ASC

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

<u>O R D E R</u>

% 03.03.2017

Petitioner before this Court is M/s Ansal Housing and Construction Ltd. An assessment order qua his property had been passed on 23.02.2017. This assessment order had been passed under section 123D of the DMC Act. The annual value of the property had been determined at Rs.39,25,760/- w.e.f. 01.04.2004. Since the petitioner had failed to discharge his obligations a penalty of 30 percent on the tax due had been imposed.

At the outset learned counsel for the respondent submits that since the assessment order is under challenge (followed by the coercive notice of demand dated 28.02.2015) the writ court is not the appropriate forum; the petitioner has an alternate efficacious remedy; he had to approach Municipal Tax Tribunal (MTT).

Senior counsel for the petitioner submits that this assessment order had been passed ex parte without notice to him; he has drawn attention of this Court to the notice dated 16.12.2014; submission is that this notice was never served upon him. A perusal of the averments made in the writ petition discloses that this submission propounded before this Court has nowhere been averred.

This Court is of the view that this petition is not maintainable. Petitioner has alternate remedy to approach MTT.

At this stage, counsel for the petitioner submits that pre-deposit of the entire demanded amount in terms of the demand notice dated 28.02.2015 (Rs.89,89,039/-) would be a huge financial liability upon the petitioner. He has a good case. He has placed reliance upon the judgments of this Courts reported as 75(1998) DLT 306 *J.R.Sood and Ors. Vs. MCD* and 63(1996) DLT 163 *Indian Hotels Co.Ltd and Anr. Vs. New Delhi Municipal Council and Ors.* to support his submission that the Court may consider the reduction of pre-deposit amount.

Noting the peculiar facts of the case the petitioner upon deposit of 50 percent of the demanded amount (Rs.89,89,039/-) is permitted to file his appeal and appear before MTT. This deposit shall be made within a period of two weeks and the appeal shall also be filed before the competent authority within that period.

Petition disposed of in the above terms.

INDERMEET KAUR, J

MARCH 03, 2017
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