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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2787/2017 & CM 12150/2017

**M/S BIRLA COTTON SPINNING & WEAVING
MILLS LTD**

... Petitioner

Through: Mr. B.B. Gupta, Senior Advocate
with Ms Seema, Mr Davesb Bhatia, Mr Saurabh
Kumar and Mr Apoorv Gupta, Advocates

versus

NEW DELHI MUNICIPAL COUNCIL

..... Respondent

Through: Mr Arjun Mitra, Ms Jaskaran Kaur
and Mr Jitendra Kumar Tripathi, Advocates for
NDMC

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE PRATHIBA M. SINGH

ORDER

11.10.2017

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1. The present petition, *inter alia*, seeks the quashing and setting aside of the impugned sub-bye law (8) of bye-law 4 of the NDMC (Determination of Annual Rent) Bye laws, 2009 enacted by respondent for assessing. As far as this prayer is concerned, it requires to be allowed in view of the judgment of this Court dated 10th August, 2017 passed in W.P.(C) No.3348/2010 (*Association of Concerned Citizens of New Delhi v. New Delhi Municipal Council & Ors.*).

2. A further challenge is to the assessment order dated 1st September, 2016. By the said assessment order, three notices dated 31st March, 2005 (issued under Section 72 of the NDMC Act) 15th February, 2011 and 13th March, 2014 have been adjudicated and a demand has been created

consequent thereto. As far as demand pursuant to the notices dated 15th February, 2011 and 13th March, 2014 is concerned, it does not survive in view of the Byelaws of 2009 having held to be ultra vires of the NDMC Act by the aforesaid decision of this Court.

3. As far as the demand created pursuant to the notice dated 31st March, 2005 is concerned, the Court is of the view that in the facts and circumstances of the case, there should be a fresh adjudication after furnishing the Petitioner with a copy of the said notice dated 31st March, 2005 (since one of the grievances of the Petitioner is that it has not been served with a copy of the said notice).

4. Accordingly, the demand created pursuant to the notice dated 31st March, 2005 is set aside and the matter is remanded to the Assessing Authority with direction to provide the Petitioner a copy of the said notice dated 31st March, 2005 and then continue with the proceedings in accordance with law. For the aforesaid purpose, the Petitioner's representative will appear before the Assessing Authority on 31st October, 2017 at 3 pm and the Assessing Authority will provide to such to the said representative a copy of the said notice.

5. The writ petition and the pending application are disposed of in above terms.

6. *Dasti* under the signatures of the Court Master.

S.MURALIDHAR, J.

PRATHIBA M. SINGH, J.

OCTOBER 11, 2017/*rd*