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

\+ W.P.(C) 3176/2017 & CM Appl. No. 13822/2017

M/S INDRA SINGH & SONS PVT. LTD. ..... Petitioner

Through :Mr. Amitabh Chaturvedi and Mr. Somesh Srivastava, Advs.

versus

NEW DELHI MUNICIPAL COUNCIL ..... Respondent

Through :Mr. Arjun Mitra and Mr. Abhishek Misra, Advs.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

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

% **17.04.2017**

Assessment order dated 1st February, 2016 (Annexure P-1) relating to property bearing no. 17, Tughlak Road, New Delhi has been assailed in this writ petition. In view of the alternative remedy available to the petitioner, I am not inclined to entertain this writ petition. Reliance is also placed on the order dated 21st March, 2017 passed by the Division Bench in W.P.(C) No. 2392/2017 titled M/s. Godfrey Phillips India Limited vs. New Delhi Municipal Council & Ors.

As regards deposit of tax is concerned, Division Bench has observed as under:-

"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/Additional District Judge 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 this case, there are three base years. First base year relates to 1st April, 2004 to 31st March, 2005; second base year relates to 1st April, 2010 to 31st March, 2011 and third base year relates to 1st April, 2013 to 31st March, 2014. Accordingly, petitioner would deposit the tax arrears for the base years 2004-05, 2010-11 and 2013-14. Amount of ₹2,81,871/-, already stated to has been deposited, shall be given adjustment of while making the deposits. Petitioner is at liberty to prefer the appeal within thirty days. In case appeal is preferred within thirty days, the same shall be decided in accordance with law without reference to the limitation provided for appeals. Subject to deposits made in terms of this order respondent shall not recover balance tax in terms of the impugned order, till disposal of appeal by the Tribunal.

Writ petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

APRIL 17, 2017
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