$~2

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

\+ LPA 659/2017, CAV 880/2017, CM APPL.36606-36609/2017

SOUTH DELHI MUNICIPAL CORPORATION ..... Appellant

Through: Mr. Sriharsha Peechara, Standing Counsel for SDMC with Mr. Ashish Tiwari and Ms. Vidhi Jain, Advocates.

versus

V.V. GUPTA ..... Respondent

Through: Mr. Anand Mishra with Mr. Hemant Kumar, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **24.10.2017**

1. The appeal is directed against an order of the learned Single Judge dismissing the respondent's writ petition.

2. The respondent was aggrieved by the collection of the license fee and had contended that over and above the fee chargeable by the appellant/corporation as a condition for the grant of license and apart from any advertisement tax that could be levied, amounts could not be recovered on the ground of license fee.

3. The Single Judge had relied upon the previous judgment in *Sports & Leisure Apparel Ltd. V. MCD and Anr.* (W.P.(C)4436/2010, decided on 18.11.2014).

4. The appellant's review petition against the impugned order was rejected by the Single Judge after an earlier unsuccessful attempt to approach the Division Bench in appeal. The appeal was dismissed as withdrawn.

5. The appellant Corporation states that the decision in *Sports & Leisure Apparel Ltd. (supra)* is inapplicable. It was urged that in that case permission or license was

not obtained by the main petitioner and that the fact were entirely different.

6. The Court notices that firstly a number of petitions were decided by the Single Judge dealing with several facets of the same issue. One distinct line was where license was obtained and the amounts were sought to be recovered over and above the registration charges – by way of deposit of security amount and other charges (apart from advertisement tax). These were challenged as unlawful and without authority of law.

7. The Single Judge considered all these elaborately and held that the phraseology of Section 143 especially Section 143 (3) precluded collection of such amounts. That ruling has now been confirmed by the Division Bench; more than one appeal by special leave have been preferred against these decisions.

8. Having regard to these facts - and the circumstance that the judgment in *Sports & Leisure Apparel Ltd. (supra)* was confirmed by the Division Bench in its order dated 18.02.2015, this Court finds no merit in the present appeal; the same is accordingly dismissed.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

OCTOBER 24, 2017
/vikas/