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

Date of Order: May 26, 2017

+ W.P.(C) 9206/2015 & C.M.No. 21023/2015

M/S JAYANT GAS SERVICE & ANR. Petitioners
Through: Mr. Manish Sharma & Mr. Pranav
Raj Singh, Advocates

Versus

DELHI DEVELOPMENT AUTHORITY Respondent
Through: Ms. Niharika Ahluwalia, Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

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In this writ petition, challenge is to demand of license fee at escalated rate and that too, without reason. A bare perusal of respondent's Communication of 8th January, 2014 reveals that a demand of ₹2,03,614/- had been raised on account of license fee upto 31st March, 2010. This is second round of litigation. In the first round of litigation, a Coordinate Bench of this Court vide order of 3rd October, 2013 in W.P.(C) 2499/2010 had quashed the earlier identical demand of 23rd March, 2010 with direction to respondent-DDA to inform petitioner about the rate of license fee charged, the basis thereof and to pass a speaking order giving details of amount payable by petitioner within eight weeks

from 3rd October, 2013. It is the case of petitioner that speaking order in terms of directions issued by this Court on 3rd October, 2013 has not been passed and fresh impugned demand of 8th January, 2014 has been raised.

While entertaining this petition, the impugned demand notice of 8th January, 2014 was stayed. The fresh impugned demand notice is apparently not in consonance with the directions issued by this Court vide order of 3rd October, 2013. On the last date of hearing, the stand taken by counsel for respondent-DDA was that speaking order of 5th September, 2016 has been passed and the same would be placed on record. Now, the said order of 5th September, 2016 has been placed on record by respondent-DDA and it reveals that it nowhere deals with the revised license fee w.e.f. 1st April, 2004. Alongwith the counter affidavit filed by respondent, a clarification sheet (*Annexure R-1*) is appended.

Counsel for petitioner submits that the applicability of Circulars of 28th February, 1994 and 13th November, 1995 is not disputed but the quantum jump in license fee from 1st April, 2004 is an issue, which has not been addressed by respondent-DDA in its so called speaking order of 5th September, 2016.

During the course of hearing, learned counsel for respondent-DDA had sought to explain the enhancement of license fee from ₹8,000/- odd to ₹21,000/- odd by pointing out that the area under petitioner's possession had increased from 288.45 meters to 572 sq. meters.

At this stage, counsel for petitioners' points out it is misnomer to say so because the rate of license fee applied is not for 572 sq. meter but

for 288.45 sq. meter and that area in possession of petitioner w.e.f. 1st April, 2004 is 288.45 meter and not 572 sq. meters. However, counsel for respondent maintains that the enhancement in the license fee is justified in view of the fact that w.e.f. 1st April, 2004, policy decision has been taken to revise the license fee. Pertinently, the said policy is neither on record nor it has been adverted to in the so called speaking order of 5th September, 2016.

After having heard counsel representing both the sides and on perusal of the fresh impugned demand of 8th January, 2014 and the so called speaking order of 5th September, 2016, this Court finds that the so called speaking order is not in consonance with directions in remand order of 3rd October, 2013. Neither the revised license fee rates from the year 2004 onwards are on record nor there is any whisper about it in the speaking order. Consequently, the fresh demand of 8th January, 2014 and the speaking order of 5th September, 2016 are hereby quashed with direction to respondent to pass a fresh speaking order within twelve weeks justifying the substantial increase in the license fee. So far as the question of charging of interest on the outstanding license fee is concerned, the fresh speaking order shall explain the interest component while keeping in view the fact that the earlier speaking order was not passed by respondent within the time line granted by this Court. The fate of the fresh speaking order be made known to petitioner within two weeks thereafter. Needless to say if petitioner is still aggrieved by the fresh order passed, it shall be at liberty to avail of the remedies as available in the law. Purely as an interim measure, petitioner is permitted

to deposit the license fee as on 1st January, 2006 upto date with respondent-DDA within twelve weeks.

With aforesaid directions, this petition and application are disposed of.

**(SUNIL GAUR)
JUDGE**

MAY 26, 2017

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