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

\+ W.P.(C) 3166/2018, CM Nos. 12556-12558/2018

MANAVA BHARTI INSTITUTE OF CHILD EDUCATION AND CHILD PSHYCOLOGY

..... Petitioner

Through: Mr. Hrishikesh Baruah, Adv. with Ms. Radhika Gupta, Mr. Siddhant Kaushik & Mr. Pranav Jain, Advs.

versus

THE SOUTH DELHI MUNICIPAL CORPOARATION AND ORS.

..... Respondent

Through: Ms. Mini Pushkarna, SC for SDMC with Ms. Anushruti & Ms. Swagata, Advs. & Mr. Sanjay Chauhan, SO, Property Tax Department, SDMC
Mr. O.P. Gaggar, Adv. for R-3/Central Bank of India

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

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

% **03.04.2018**

<u>CM Nos. 12557/2018</u>

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

<u>W.P.(C) 3166/2018 & CM No. 12556/2018 & 12558/2018</u>

1. The present petition has been filed by the petitioner with the following prayers:-

"(A) Issue a Writ in the nature of certiorari or any other writ

order or direction thereby Calling for the Records and thereby Set Aside/Quash the Common Assessment Order under Section 123 D of the Delhi Municipal Corporation Act dated 15.12.2017 passed by the Assessor and Collector-cum-Additional Commissioner, SDMC for the Assessment Period (2004-2005 to 2016-2017) and the consequent Notice of Demand dated 18.12.2017 and the proceedings emanating therefrom; and

(B) Issue a Writ in the nature of certiorari or any other writ order or direction thereby Calling for the Records and thereby Set Aside/Quash the Show cause notice dated 05.02.2018 to initiate penalty proceedings against the present Petitioner on the basis of the impugned Assessment Order dated 15.12.2017; and

(C) Issue a writ in the nature of certiorari or any other writ order or direction thereby Calling for the Records and thereby Set Aside/Quash the Warrants of distress dated 12.03.2018 whereby the Respondent No.1 (South Delhi Municipal Corporation) had directed the Respondent No.3 Central Bank of India to remit the amount of `2,54,08,673/- (Rupees Two Crores Fifty Four Lakhs Eight Thousand Six Hundred Seventy Three only) from the Bank Account of the Petitioner; and

(D) Issue a Writ in the nature of mandamus or any other writ, order or direction thereby directing the Respondent No.1 to refund the amount of `1,38,50,000/- (Rupees One Crore Thirty Eight Lakhs Fifty Thousand Only) that has been withdrawn from the bank account of the present Petitioner bearing Account No. 1111257308 on 15.03.2018 along with interest @ 12% per annum from the date of withdrawal till the date of complete payment; and

(E) Pass such other and further Order[s] as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case and in the interest of

justice."

2. It was put to the learned counsel for the petitioner that the remedy for the petitioner is to approach the Municipal Taxation Tribunal. He after some submissions, seeks to withdraw the writ petition to approach the Tribunal.

3. One of the submissions of the learned counsel for the petitioner is, since the impugned assessment order has been issued on December 15, 2017, possibly the limitation would come against the petitioner while seeking the remedy of appeal. Learned counsel for the petitioner has drawn my attention to various communications made by the petitioner to the respondents seeking rectification of the assessment order in order to justify the limitation. It is the submission of the learned counsel for the petitioner, since the petitioner was pursuing with the respondents, the petitioner could not file appeal within the limitation period.

4. Having noted the representations made by the petitioner between January 08, 2018 to March 20, 2018, suffice to state that if any application is made by the petitioner seeking condonation of delay in challenging the assessment order, the Tribunal shall consider the same favourably keeping in view the aforesaid facts.

5. The petition and the connected applications are dismissed as withdrawn, with liberty to the petitioner to approach the Tribunal.

Dasti under the signatures of Court Master.

V. KAMESWAR RAO, J

APRIL 03, 2018/*ak*