$~47

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

\+ W.P.(C) 13872/2018, CM APPL.No.54162-54163/2018

ASHOK LAKHANI

..... Petitioner

Through : Mr.Ashish Mohan, Mr.Akshit Mago and Mr.Shashwat Panda, Advocates

versus

NEW DELHI MUNICIPAL COUNCIL

..... Respondent

Through : Mr.Arjun Mitra, standing counsel with Mr.Arjun Malik, ASC

CORAM:
HON'BLE MR. JUSTICE YOGESH KHANNA

O R D E R

% 20.12.2018

CM APPL.No. 54163/2018

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 13872/2018, CM APPL.No.54162/2018

This petition is for issuance of a writ of certiorari quashing the impugned order dated 29.06.2017 by which the respondent has revised the rateable value of the properties of the petitioner bearing shop/flat No.85 and 86, Sarojini Nagar Market, New Delhi and further for quashing letter dated 29.08.2018 whereby the respondent has raised a demand for an amount of Rs.3,03,88,291/- on account of property tax.

During the course of arguments it was submitted by learned counsel for the respondent has referred to *Shyam Kishore V.*

Municipal Corporation of Delhi (1993) 1 SCC 22 and *Sunil Raj & Co. Pvt. Ltd. v. Municipal Corporation of Delhi* 48 (1992) DLT 621; discussed in *Springdales School V. North Delhi Municipal Corporation* (2017) 238 DLT 487 (DB) as under :

> *10. Shyam Kisore (supra) was further clarified in Sunil Raj and Company Pvt. Ltd. v. MCD 48 1992 DLT 621 where it was clearly stated that as long as the demand relatable to base year is satisfied, the appeals – even if they concern more than one year, can be heard on the merits under Sections 169- 170 of the Act. Furthermore, the Court clarified that it is not necessary for an assessee to appeal against each base year and that only one appeal is maintainable in such eventuality concerning the base year. The Court pertinently held as follows:*
>
> > *"(8) In other words, as in the present case, when vide one assessment order assessments have been framed for a number of years and there is assessment made in respect of base year which is followed in the subsequent years the proper exercise of the discretion of the appellate authority would be to have the disputed tax in respect of the base year deposited from the appellant and then to proceed to hear and decide the appeal filed in respect of base year assessment and after deciding the said appeal the decision of the appeal in respect of the base year would automatically govern the assessments of the subsequent years.*
> >
> > *(9) It is clear that the District Judge can go on extending the time for deposit of disputed tax by passing necessary orders in respect of the appeals pertaining to the assessments of the subsequent years till the appeal in respect of the base year is heard and determined. The District Judge in its discretion can direct deposit of admitted tax in the said appeals and can extend the period of deposit of disputed tax. As soon as the appeal against assessment of the base year is determined, the legally payable tax in respect of subsequent years can be got deposited and appeals of subsequent years disposed of. Rather the decision of appeal of base year would automatically govern the subsequent years assessment of which is based on base year assessment."*

It is submitted that without prejudice to the rights and contentions qua the limitation and maintainability of the appeal, the petitioner be directed to deposit the demand rateable to the base year, with the office of the respondent. The said demand is Rs.39,280/-.

The petitioner has already deposited 32,000/- and thus only sum of Rs.7,280/- is to be deposited to comply with the requirement of Section 116(b) of the NDMC Act, 1994. Such deposit be made within a week from today.

With these observations, the petition along with pending applications stands disposed of with liberty to the petitioner to file an appeal, of course, with right to the respondent to raise objections qua limitation.

Copy of this order be given *dasti* under signatures of the Court Master.

YOGESH KHANNA, J.

DECEMBER 20, 2018
VLD