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

\+ W.P.(C) 11907/2019

NEHA GUPTA ..... Petitioner

Through: Ms. Aastha Dhawan and Ms. Diksha Mathur, Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL & ANR. ..... Respondents

Through: Mr. Arjun Mitra, Advocate for respondent No. 1/ NDMC.
Mr. Niraj Kumar, CGSC for respondent No. 2/ UOI.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **15.11.2019**

C.M. No. 48835/2019

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 11907/2019 and C.M. No. 48834/2019

The petitioner has preferred the present petition to seek the following reliefs:

"a. issue a writ of Mandamus or any other appropriate writ order or direction under Article 226 of the Constitution of India to call for the records and quash assessment order Order for Bifurcation of Rateable Value dated 24.09.2010 and Property Tax Bills dated 02.09.2018 and other bills in Annexure-C

charging arrears of Property Tax;

b. issue a writ of Certiorari or any other appropriate writ order or direction under Article 226 of the Constitution of India quashing / reading down Sub Section (b) of Section 116 read with & Section 72 of the New Delhi Municipal Council Act, 1994 which makes it mandatory for the deposit / payment of the full amount of property tax for all the years involved to be paid to the respondent before the filing / hearing of any appeal, as being violative / ultra-vires and unconstitutional of Article 14 of the Constitution;

c. issue a writ of mandamus or any other appropriate writ order or direction under Article 226 of the Constitution of India directing the respondent no. 1 to adhere to one year period for the purpose of deciding an amendment of Assessment List (by increasing the Rateable Value) u/s 72 of the Act;

c. Pass any such order(s) as this Hon'ble Court may deem fit and proper in the fact and circumstances of the case."

The order dated 24.09.2010 – assailed by the petitioner, is an appealable order. The appeal – as of date, is barred by limitation.

Learned counsel for the petitioner submits that the petitioner bona fide made representations in respect of the said order over the years and has now preferred this petition since the arrears on the basis of the order dated 24.09.2010 are being claimed even now.

Since the order dated 24.09.2010 is appealable, we are not inclined to examine the same in the present petition additionally on account of the delay in preferring the writ petition.

Learned counsel for the petitioner, therefore, seeks leave to withdraw the said prayer with liberty to file an appeal with an application to seek condonation of delay. In case, the petitioner prefers the appeal within the next two weeks, the Appellate Authority may examine the matter including on the aspect of condonation of delay keeping in view that the petitioner has been making representations in the past.

We make it clear that we have not expressed any opinion on the merits of the validity or, otherwise, of the order dated 24.09.2010.

So far as the second prayer is concerned, in our view, the same has no merit since the validity of Section 116(b) of the NDMC Act has been upheld by this Court in ***Mr. Ved Marwah Vs. New Delhi Municipal Council (NDMC) & Others***, W.P.(C.) No. 188/2018 and other connected writ petitions decided on 23.03.2018; following the decision of the Full Bench in ***Shyam Kishore & Others Vs. Municipal Corporation of Delhi and Anr.***, (1993) 1SCC 22.

The petition stands disposed of in the aforesaid terms.

Dasti.

VIPIN SANGHI, J

SANJEEV NARULA, J

NOVEMBER 15, 2019
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