

\$~45

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

%

Judgment delivered on: 09.04.2021

+ W.P.(C) 4429/2021 & CM APPL.13536/2021

RAMJAS SCHOOL AND ANR

..... Petitioners

versus

NORTH DELHI MUNICIPAL CORPORATION AND ANR

.....Respondents

Advocates who appeared in this case:

For the Petitioner:

Mr. Bharat Bhushan Jain, Advocate.

For the Respondent:

Ms Biji Rajesh, Advocate for Mr. Gaurang Kant,
Standing Counsel, NDMC.

Mr. Sumit Jidani, Advocate for R-2.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Petitioner seeks quashing of notices dated 04.09.2020, 17.12.2020 under Section 123D of the Delhi Municipal Corporation Act, 1957 as well as demand notices dated 22.10.2020 & 06.11.2020 under Section 154(1) of the Delhi Municipal Corporation Act, 1957. Petitioner also seeks quashing of assessment orders, if any passed by the respondent and seeks a refund of an amount of Rs.1,21,55,000/- recovered by the respondent by attaching the bank account of the

Signature Not Verified

Digitally Signed By: HUNAL
MAGGU
Signing Date: 17.04.2021 11:15:06
This file is digitally signed by PS
to HMJ Sanjeev Sachdeva.

W.P.(C) 4429/2021

petitioner.

3. Learned counsel appearing for the respondent submits that an *ex parte* assessment order with regard to the subject property has already been passed.

4. Learned counsel for the petitioner submits that order has not been served on the petitioner and there was no ground of passing the *ex parte* assessment order.

5. Learned counsel for the petitioner further submits that the respondent has imposed interest and penalty on the petitioner on the alleged demand even though a moratorium was given to other property holders from payment of interest/penalty.

6. This is disputed by learned counsel for the respondent.

7. Be that as it may, learned counsel for the respondent submits that since the allegation is that an *ex parte* assessment order was passed, respondent is willing to give a fresh hearing to the petitioner subject to petitioner cooperating with the respondent by filing the requisite documents and permitting an inspection of the property.

8. Learned counsel for the petitioner submits that revised returns have already been filed. He submits that assessment is sought to be carried out for the period which is barred by limitation. He further submits that for the said period some of the documents may not be available.

9. Without prejudice to the objection of limitation, learned counsel for the petitioner submits that petitioner is willing to cooperate with the respondent and furnish all the documents that are in the power and possession of the petitioner and would also permit an inspection of the property, if so required by the officers of the respondent prior to passing the fresh assessment order.

10. Let a copy of the *ex parte* assessment order be furnished to learned counsel for the petitioner.

11. Petitioner shall file the requisite documents within a period of two weeks and petitioner shall also permit inspection of the subject property if so required by the officers of the respondent.

12. Respondent shall thereafter pass a fresh assessment order in accordance with law after giving an opportunity of personal hearing to the petitioner.

13. Respondent shall complete the assessment proceedings within a period of two weeks of petitioner furnishing the requisite documents to the respondent.

14. Enforcement of any further demand against the petitioner would be subject to the fresh assessment order to be passed by the respondent.

15. In case it is held by the assessing officer that excess amount has been recovered from the petitioner then the excess amount shall be

refunded to the petitioner forthwith alongwith interest at the rate of 9% per annum payable from the date of the alleged illegal recovery.

16. Petition is disposed of in the above terms.

17. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

SANJEEV SACHDEVA, J.

APRIL 09, 2021

rk

Note: The Judgment was pronounced in open court on 09.04.2021 but was corrected and released only on 17.04.2021.

न्यायमेव जयते

Signature Not Verified

Digitally Signed By: RUNAL
MAGGU
Signing Date: 17.04.2021 11:15:06
This file is digitally signed by PS
to HMJ Sanjeev Sachdeva.

W.P(C) 4429/2021