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

% Judgment delivered on: 08.09.2021

\+ **W.P.(C) 9893/2021**

SH. ATUL SETHI ….. Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION …..Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Ishaan Chawla, Advocate.

For the Respondent: Mr. Dhanesh Relan and Ms. Ridhima Gupta, Advocates.

CORAM:-
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.

2. Petitioner impugns Assessment Order dated 01.12.2020, whereby *suo motu* assessment under Section 123 AB/D of the DMC (Amendment) Act, 2003 under Unit Area Method has been done.

3. Learned counsel for the petitioner submits that the petitioner has already filed an appeal before the Appellate Tribunal, MCD. However, as the Appellate Tribunal is not functional, he is constrained

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to approach this Court.

4. Leaned counsel submits that the Unit Area Method applied has already been struck down by Division Bench of this Court and said order has been upheld by the Supreme Court.

5. Learned counsel further submits that the assessment order dated 01.12.2020 is clearly erroneous as it has been mentioned that there are three floors in the subject property whereas the property is only a single storey structure.

6. He further submits that the covered area has been taken far in excess of the actual area of the property and even age factor has been applied as '1', whereas the property is an old constructed property.

7. Issue notice. Notice is accepted by learned counsel appearing for respondent.

8. Learned counsel for respondent submits that the subject assessment order was passed as petitioner had failed to file the property tax returns. He submits that Respondents are willing to pass a fresh assessment order after inspection of the property.

9. Learned counsel for the petitioner submits that that since there was ongoing dispute in respect of the subject property and was lying vacant, returns were not filed since the year 2005 - 2006.

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10. He further submits that respondent may carry out physical inspection of the property and thereafter, pass a fresh assessment order.

11. In view of the above, the assessment order dated 01.12.2020 is set aside. Petitioner is directed to file his property tax returns for the period 2005-06 onwards within a period of two weeks from today.

12. On filing of the property tax returns, respondent shall carry out a physical inspection of the property of the petitioner and thereafter, after giving an opportunity of personal hearing, pass a fresh speaking assessment order.

13. This would be without prejudice to the right of the respondent to pass appropriate orders in accordance with law with regard to delayed filing of property tax returns.

14. Petition is disposed of in the above terms.

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

SANJEEV SACHDEVA, J.

SEPTEMBER 08, 2021
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