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

% Judgment delivered on: 20th December, 2021

\+ W.P.(C) 14585/2021& CM APPL. 45971/2021

MOTHER DAIRY FRUIT AND VEGETABLE PVT LTD..Petitioner

versus

EAST DELHI MUNICIPAL CORPORATION ..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Sanjay Jain, ASG with Mr. Atul Batra, Mr. Arkaj Kumar and Mr. Kundan Mishra, Advocates (through VC)

For the Respondent: Mr. Manu Chaturvedi, Standing Counsel for EDMC (through VC)

CORAM:-
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

CM APPL. 45972-73/2021 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 14585/2021

1. Petitioner impugns assessment order dated 03.12.2021 whereby the Assessing Authority has invoked the powers under Section 123-D and Section 116-E of the Delhi Municipal Corporation Act 1957 and

maintained the annual value with effect from 2020-2021 subject to the outcome of the case pending with Municipal Tax Tribunal.

2. Learned Senior Counsel for the petitioner submits that respondent had sought to re-assess the petitioner for the assessment years 01.04.2004 till 31.03.2020. Said assessment was challenged by way of a writ petition being W.P. (C) No. 3667/2020 which petition was disposed of with the direction to the Petitioner to file an appeal before the Municipal Tax Tribunal.

3. Learned Senior Counsel submits that the appeal has been filed and the same is pending and pending the appeal, the Municipal Tax Tribunal by order dated 23.12.2020 noticing that petitioner had deposited the base year's tax demand in terms of the judgment of the High Court in *'Springdales School Vs. North Delhi Municipal Corporation & Ors.'*(2017) 238 DLT 487 (DB), further coercive action was stayed pending the appeal.

4. Learned Senior Counsel submits that the Municipal Tax Tribunal is not functional and as such petitioner has been constrained to approach this Court.

5. Learned Senior Counsel for the petitioner submits that the tax as per the base year's tax demand has been deposited for these assessment years as well.

6. It is observed that the impugned assessment order, while referring to the earlier proceedings, has maintained the earlier rateable value and stated that the same would be subject to the outcome of the case pending in the Municipal Tax Tribunal.

7. In view of the above, petition is disposed of with liberty to the petitioner to file an appeal before the Municipal Tax Tribunal within a period of four weeks of the tribunal commencing its functioning.

8. It is directed that subject to petitioner filing the appeal within the time permitted and continuing to deposit the property tax on the basis of self-assessment as well as the property tax as per the base assessment year of 2004, as in the case of earlier years that are pending before the Municipal Tax Tribunal, no coercive action shall be taken against the petitioner till the listing of the appeal before the Municipal Tax Tribunal. It is clarified that the continuance of interim protection thereafter would be subject to the orders to be passed by the Municipal Tax Tribunal.

9. Petition is disposed of in the above terms.

10. Order *dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

DECEMBER 20, 2021/'*rs*'