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

Date of Decision 18.07.2022

\+ **W.P.(C) 9633/2022 & CM. APPL. Nos.28745-46/2022**

IN THE MATTER OF :

PARMOD KUMAR JAIN ..... Petitioner

Through: Mr.Bhupinder Chandhok, Mr.Manu Bakshi and Mr.Ankit Rana, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI & ORS. ..... Respondents

Through: Mr. Tushar Sannu, Standing Counsel with Ms.Ritika Priya, Advocate alongwith Swatantra Kumar (AZI) for respondent/MCD.

Mr.Santosh Kumar Tripathi, Standing Counsel(Civil), GNCTD with Mr.Arun Panwar, Advocate

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. By way of present petition filed under Article 226 of the Constitution of India, the petitioner has assailed the Assessment Order dated 25.02.2022 issued by the respondent(s), whereby his self-assessment of property tax return in respect of property bearing *No.43, Rajasthani Udyog Nagar Industrial Area, G.T. Karnal Road, Delhi-110033* (hereinafter, referred to as

the *'subject property'*) is sought to be reopened from the year 2004 onwards. The petitioner further seeks setting aside of demand bill of Rs.41,39,433/- as well as Show Cause Notice dated 24.03.2022, issued in respect of the subject property.

2. Mr. Bhupinder Chandhok, learned counsel for the petitioner, has submitted that the petitioner is co-owner of the subject property and has been depositing the property tax in respect thereof w.e.f. the year 2004, but no notice or communication was received by him from the respondent(s) regarding said payment of tax. However suddenly, on 18.02.2022, the petitioner received a letter dated 15.02.2022 bearing No. TAX/CLZ/2021-22/634 from the respondent(s) for assessment, stating that a notice under Section 123D of the DMC (Amendment) Act, 2003 was issued to the taxpayer/petitioner, but no reply was received and as such the Department wished to inspect the subject property. It is submitted that thereafter, on 24.03.2022, the petitioner received a Show Cause Notice under Sections 155/156 of the DMC Act, 1957, which was duly replied to.

Learned counsel has contended that under Section 169 of the DMC Act, the impugned assessment order is appealable before the Municipal Taxation Tribunal (hereinafter, referred to as *'the Tribunal'*). As such, the petitioner had filed an appeal before the Tribunal under Section 169 of the DMC Act. However, the same is not likely to be heard within the statutory period of 30 days since receipt of demand notice, as the Tribunal has not been functioning. It is pressed that on 09.06.2022, the officials of the respondent(s) visited the subject property and indicated inclination towards coercive action in absence of an order from the Tribunal.

3. In response, Mr. Santosh Kr. Tripathi, learned Standing Counsel (Civil), GNCTD, has submitted that requisite steps for constitution of the Tribunal are underway and would be taken expeditiously.

4. Mr. Chandhok has also referred to judgment dated 20.12.2021 passed by a Co-ordinate Bench of this Court in Mother Dairy Fruit and Vegetable Pvt. Ltd. *v.* East Delhi Municipal Corporation, **W.P. (C) 14585/2021** where, subject to the petitioner continuing to pay property tax as per the base assessment year of 2004, it was directed that no coercive steps be taken against it.

Learned counsel, on instructions, submits that the present petitioner shall continue to pay property tax as per the base year 2004-05. He also seeks liberty for the petitioner to pursue appropriate recourse before the Tribunal as and when the same becomes functional.

5. In view of the submissions made on behalf of the parties, the present petition is disposed of with a direction to the petitioner to continue to pay property tax as per the base assessment year 2004-05, as undertaken by him. The petitioner shall also be at liberty to pursue appropriate remedy before the Tribunal within four weeks of commencement of its functioning.

6. Subject to the petitioner taking recourse before the Tribunal in accordance with law in the time permitted and continuing to pay property tax as per the assessment year 2004-05, no coercive steps be taken against him till listing of the appeal. It is clarified that continuation of interim protection thereafter shall be subject to the orders to be passed by the Tribunal. Miscellaneous applications are disposed of as infructuous.

7. Needless to state that this Court has not gone into the merits of the contentions raised on behalf of either of the parties. As such, the rights and contentions of the parties shall remain reserved.

(MANOJ KUMAR OHRI)
JUDGE

JULY 18, 2022/v