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

+W.P.(C) 10100/2022, CM.APPL No. 29342/2022 & CM.APPL No. 29343/2022

Date of Decision 07/07/2022

IN THE MATTER OF:

NARAINA IRON & STEEL MERCHANTS WELFARE ASSOCIATION (REGTD) & ORS. ..... Petitioners

Through: Mr. Ajay Kumar, Mr. Nirmal Kishore, Mr. Avinath Kumar and Mr. Saurabh, Advocates.

Versus

MUNICIPAL CORPORATION OF DELHI ..... Respondent

Through: Mr. Kapil Dahiya, Standing Counsel for MCD.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. By way of the present petition filed under Article 226 of the Constitution of India, the petitioners seek quashing of Notice(s) dated 02.02.2022 and 08.02.2022 bearing No.TAX/KBZ/2021-22/By Hand and TAX/KBZ/2021-22/1599 respectively issued by the respondent under Section 175 of the Delhi Municipal Corporation Act, 1957 (hereinafter, referred to as the *'Act'*), whereby self-assessment property tax return(s) of their members with respect to property bearing *No. C-122, Naraina Industrial Area* and *C-167, Naraina Industrial Area, Phase I* respectively are sought to be reopened from the year 2004-05 onwards. The petitioners further seek quashing of assessment order bearing No. TAX/KBZ/A&C/2021-2022/A-3106/1709 dated 21.02.2022 issued by

the respondent with respect to property bearing *No. C-167, Naraina Industrial Area, Phase I, New Delhi – 110028*, whereby demand for property tax on annual value of property assessed at Rs.10,85,600/- with effect from 01.04.2020 has been raised and a penalty of 30% imposed on the tax due. Other connected reliefs are also sought.

2. Mr. Ajay Kumar, learned counsel for the petitioners, submits that the petitioners are registered association(s) of members of traders and manufacturers in *Naraina* and *Najafgarh* industrial areas. He further submits that a representation dated 24.12.2021 was addressed by the petitioners to the Assessor and Collector of the respondent in response to the notices issued to its members demanding property tax from the year 2004-05 to 2020-2021, inter-alia, on various grounds.

It is contended that the Commissioner/Issuing Authority had no jurisdiction to issue the impugned notices/assessment order. Learned counsel has further contended that under Section 169 of the Act, the impugned assessment order is appealable before the Municipal Taxation Tribunal (hereinafter, referred to as *'the Tribunal'*), however, the same has not been functioning.

3. In support of his submissions, learned counsel for the petitioners has referred to the judgments passed by this Court in Mother Dairy Fruit and Vegetable Pvt. Ltd. *v.* East Delhi Municipal Corporation, **W.P.(C) 14585/2021** and MKJ Manufacturing Pvt Ltd *v.* South Delhi Municipal Corporation & Anr., **W.P. (C) 6447/2022** 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.

He, on instructions, submits that the members of petitioner-association(s) shall continue to pay property tax as per the base year

2004-05 and seeks liberty for the petitioners to file an appeal before the Tribunal as and when the same becomes functional.

4. Issue notice.

5. Mr. Kapil Dahiya, learned Standing Counsel for the respondent, accepts notice.

6. In view of the submissions made on behalf of the petitioners, the present petition is disposed of with a direction to the members of petitioner-association(s) to continue to pay property tax as per the base assessment year 2004-05, as undertaken by them. The petitioners shall also be at liberty to approach the Tribunal within four weeks of commencement of its functioning.

7. Subject to the petitioners filing an appeal before the Tribunal in the time permitted and continuing to pay property tax as per the assessment year 2004-05, no coercive steps be taken against them 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.

8. 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 07, 2022
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