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

\+ **W.P.(C) 10417/2022, CM APPL. 30054/2022 and CM APPL. 30053/2022**

Date of Decision: 18.07.2022

IN THE MATTTER OF:

M/S ARHAM CABLES PVT. LTD. ..... Petitioner
Through: Mr. Abinash Kumar Mishra and Mr. Gaurav Jain, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI ..... Respondent
Through: Mr. Manu Chaturvedi, Standing Counsel with Mr. Malhar Desai, Advocate for respondent No. 1.
Mr. Arun Panwar, Advocate for GNCTD.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. By way of the present petition filed under Articles 226/227 of the Constitution of India, the petitioner impugns demand notice dated 11.05.2022, whereby the respondent-Corporation has assessed the property of the petitioner retrospectively with effect from 01.04.2004 and demanded an amount of Rs.66,84,876/- as arrears of property tax including interest and penalty as on 10.05.2022. The petitioner has also assailed the order dated

30.05.2022 of rent attachment issued by the respondent.

2. Learned counsel for the petitioner submits that the petitioner had purchased the subject property i.e., *12, Rajasthan Udyog Nagar, G.T. Karnal Road, Delhi - 110054* by way of Sale Deed dated 15.01.2007 whereafter, it had remained unoccupied till the year 2017, when the same was let out to M/s Amazon Transportation Services Pvt. Ltd. The petitioner continued to pay property tax as per Unit Area Method. He submits that by way of the impugned notice, the respondent has raised a demand of Rs.66,84,876/- towards arrears of property tax by applying wrong use factor and assessing the petitioner's property as commercial property, which ought to have been assessed as industrial-vacant upto 2017 and industrial thereafter. He further submits that the said assessment order was passed without giving any Show Cause Notice. The property tax demand was challenged by the petitioner by filing its objections on 26.05.2022. It is submitted that the respondent has even issued 'No Dues Certificate' dated 30.01.2020 to the petitioner and as such the respondent cannot demand the property tax prior to the year 2019-20 by way of impugned demand notice dated 11.05.2022.

It was next submitted that the property was measured in the absence of the petitioner and assessment order has been passed retrospectively in respect of portions of the property which were not even constructed in the year 2004 but were constructed in the year 2017. He submits that the petitioner has also deposited a sum of Rs.5,00,000/- towards the demand raised for the base years 2004-05 and 2020-21 vide cheque dated 25.05.2022. During the course of submissions, learned counsel for the petitioner has submitted that the petitioner has deposited further amounts towards the property tax for the assessment year 2022-2023. He also submits that the respondent has not given any credit for the amount(s) already deposited. Lastly, it is submitted that despite the petitioner filing objections to the impugned demand notice, the respondent without taking into account such objections/grant of personal hearing, has arbitrarily passed the order dated 30.05.2022 with respect to the petitioner's property.

3. Issue notice.

4. Learned Standing counsel for the respondent accepts notice and has disputed the submissions made on behalf of the petitioner. He submits that the aforesaid order dated 30.05.2022 has been issued to the assessee's/petitioner's tenant. He further submits that the petitioner was duly served with a Show Cause Notice dated 04.08.2021, which was even responded by the petitioner. It is submitted that the petitioner was also served with assessment order and demand notice, both dated 24.03.2022.

5. At this stage, learned Standing counsel for the respondent without prejudice to the rights and contentions of the respondent, on instructions, submits that the respondent would grant a personal hearing to the petitioner. He, however, prays that the amount attached by the bank be directed to be remitted to the Corporation.

6. Keeping in view the aforesaid facts and circumstances as well as the discussion noted hereinabove and without prejudice to the rights and contentions of either of the parties, the petition is disposed of with the following directions:-

> i) The impugned demand notice dated 11.05.2022 is hereby set aside. The matter is remitted to the Deputy Assessor & Collector for fresh assessment.

ii) Petitioner shall appear before the Deputy Assessor & Collector on 29.07.2022 at 11.00 a.m. along with documents in support of his assessment.

iii) Petitioner would be at liberty to file further objections, if any, on the said date.

iv) The officers of the Corporation shall measure the property in the presence of the petitioner and thereafter, after giving an opportunity of a personal hearing, pass a fresh assessment order.

v) Petitioner shall remit a sum of Rs.15 lacs to the respondent-Corporation on or before 29.07.2022, which shall be retained by the bank and the same shall be subject to the fresh assessment order to be passed by the respondent-Corporation.

vi) On remittance of the said amount of Rs.15 lacs by the petitioner, further attachment of rent of the petitioner shall be discontinued until fresh assessment order is passed.

vii) The Deputy Assessor & Collector shall pass a fresh assessment order within a period of two months from 29.07.2022.

7. The petition is disposed of in the above terms. Miscellaneous applications are disposed of as infructuous.

(MANOJ KUMAR OHRI)
JUDGE

JULY 18, 2022/*ga*