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

+ W.P.(C) 2059/2024 and CM APPL.8598/2024 (Stay)

(57) DEEPAK SEHGAL Petitioner

Through: Mr. Varun K. Chopra and Ms. Mehul
Sharma, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ANR..... Respondents

Through: Mr. Tushar Sannu, SC along with Mr.
Manoviraj Singh, Adv. and Mr.
Rakesh Bhardwaj, ZI (MCD)

+ W.P.(C) 2069/2024 and CM APPL.8616/2024

(58) MS DEEPAK KARAN HOSPITAL PVT LTD Petitioner

Through: Mr. Varun K. Chopra and Ms. Mehul
Sharma, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ANR..... Respondents

Through: Mr. Tushar Sannu, SC along with Mr.
Manoviraj Singh, Adv. and Mr.
Rakesh Bhardwaj, ZI (MCD)

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

14.02.2024

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1. The present petitions have been filed by the petitioner assailing the demand notice dated 01.02.2024 bearing No.SDMC/A&C/SZ/RKP/2023-24/2016 and a notice dated 04.01.2024 bearing No. TAX /MCD /SOUTH /2024 /070301, under Section 123D of the DMC Act, 1957.

2. During the course of hearing, it transpires that the demand notice dated 01.02.2024 has been issued on the basis of an Assessment Order dated



25.01.2024, issued under Section 123D of the DMC Act, 1957 (stated to have been received during the course of these proceedings).

3. The petitioner assails the impugned demand notice dated 01.02.2024, the notice dated 04.01.2024 and the consequent Assessment Order dated 25.01.2024 under Section 123D of the DMC Act, 1957 on the ground that no opportunity of hearing was afforded to the petitioner to make its submissions pursuant to the notice dated 04.01.2024. It is submitted that although the notice dated 04.01.2024 purportedly grants an opportunity to the petitioner to upload the relevant document/payment receipt of SAPTR within seven days, as a matter of fact, the aforesaid notice dated 04.01.2024 was received by the petitioner well after expiry of seven days from the date of issuance of the said notice. Further, it is contended that there was no occasion for the respondent/MCD to take recourse to the provisions of Section 123D DMC Act, 1957 in light of the SAPTR being filed by the petitioner consistently since the year 2004-05 till 2022-23.

4. Further, it is contended that there is no basis for the MCD to reach the conclusion that there was any incorrect statement, concealment or suppression made in the SAPTRs filed by the petitioner.

5. Learned counsel for the petitioner further submits that there was no occasion for the petitioner to point out all these aspects to the concerned Joint Assessor and Collector who issued the Assessment Order since no opportunity of hearing was afforded to the petitioner.

6. It is further contended that the demand notice dated 01.02.2024 is also misconceived and not in accordance with the statutory provisions inasmuch as the Assessment Order under Section 123D of the DMC Act, 1957 was never served upon the petitioner and that a copy thereof has been supplied to



the petitioner only during the course of these proceedings.

7. Learned counsel for the respondent strenuously controverts the contentions made by learned counsel for the petitioner. However, since admittedly the petitioner was not heard prior to issuance of the Assessment Order under Section 123D of DMC Act, 1957 and since the petitioner has submitted a detailed representation dated 03.02.2024, learned counsel for the respondent submits, on instructions, that the respondent is not averse to considering the representation of the petitioner and pass a speaking order thereon and if necessary, rectify the aforesaid Assessment Order dated 25.01.2024. It is directed accordingly.

8. It is noticed that the aforesaid Assessment Order dated 25.01.2024 itself records that the *suo moto* assessment has been resorted to “on the basis of information/document available on record”. During the course of the aforesaid exercise, the petitioner shall be at liberty to place on record the relevant information/documents on record to enable the respondent/MCD to consider the pleas of the petitioner. The petitioner shall also be entitled to make supplementary submissions.

9. Let the aforesaid exercise be completed within a period of four weeks from today.

10. Respective counsel for the parties are in agreement that a hearing shall be provided to the petitioner by the concerned Joint Assessor and Collector, South Zone, R.K. Puram, New Delhi on 19.02.2024 at 02.00 PM. The speaking order and/or rectification of the Assessment Order, shall be issued within a period of four weeks from today.

11. Till the aforesaid exercise is completed, the demand notice dated 01.02.2024 shall remain in abeyance.



12. It is noticed that this court is seized of a large number of writ petitions of the present kind on account of the fact that the concerned Municipal Taxation Tribunal, which is contemplated to be set up under Section 169 of DMC Act, 1957 is not functional for want of *coram*. Let the GNCTD take requisite steps to fill up the vacancies, and ensure that the Municipal Tax Tribunal is in place. It is hoped and expected that expeditious steps shall be taken in this regard.

13. Let a copy of this order be sent to the Chief Secretary, GNCTD.

SACHIN DATTA, J

FEBRUARY 14, 2024/cl