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

\+ W.P.(C) 3280/2024, CM APPL. 13553/2024 (Stay)

SUNIL BHARTI MITTAL & ANR. ..... Petitioners

Through: Mr. Amitabh Chaturvedi and Mr. Sangeeth Mohan, Advs.

versus

NEW DELHI MUNICIPAL COUNCIL ..... Respondent

Through: Mr. Neeraj Kumar, (ASC) Adv. alongwith Mr. Nikhil Palli, Adv. (through VC) and Mr. Harsh Saini and Mr. Jatin Chaudhary, Advs.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

<u>O R D E R</u>

% **29.04.2024**

1. Two primary contentions have been raised by the learned counsel for the petitioners.

2. Firstly, it is contended that the assessment order dated 26.07.2022 issued under Section 72 of the New Delhi Municipal Council Act, 1994 (the "NDMC Act"), as also the rectification order dated 09.05.2023 (whereby, the said assessment order has been rectified) which has been issued qua the property in question, is in utter contravention of the proviso to Section 72 of the NDMC Act, inasmuch as the rateable value of the property has been sought to be re-worked for the period prior to the commencement of the year in which the notice under Section 72 of the NDMC Act came to be issued.

3. Secondly, it is contended that the rectification order is erroneous/without jurisdiction inasmuch as it fails to take into account that

at least till the date on which the Supreme Court rendered its judgment dated 22.01.2019 in Civil Appeal No(s). 903-930 of 2019 titled as ***New Delhi Municipal Council Etc. v. Association of Concerned Citizens of New Delhi and Others Etc.***, the unit area methodology under the NDMC bye-laws, 2009, could not have been discarded.

4. Learned counsel for the NDMC concedes that the aforesaid aspects ought to have been considered elaborately prior to issuance of the aforementioned assessment order and the rectification order. In the circumstances, after some hearing, he submits that the rectification order dated 09.05.2023 be treated as withdrawn. He further submits that a fresh assessment order/rectification order shall be passed after affording an opportunity of hearing to the petitioners. It is directed accordingly.

5. Let a hearing be afforded to the petitioners by the respondent/NDMC, within a period of three weeks from today and a fresh assessment/rectification order under Section 72 of the NDMC Act be passed, within a period of four weeks thereafter.

6. It shall be open to the respondent to raise and enforce appropriate demands towards arrears of property tax qua the property in question, after conclusion of the aforesaid exercise.

7. Needless to say, the same shall be subject to the petitioner’s statutory appellate/ other remedies as prescribed under law.

8. The present petition, along with pending application/s, is disposed of in the above terms.

SACHIN DATTA, J

APRIL 29, 2024/r