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

% ***Date of Decision: 24.04.2024***

\+ W.P.(C) 3346/2024, CM APPL. 13796/2024 (STAY)

PURI INVESTMENT & ORS. ..... Petitioners

Through: Mr. Jeevesh Nagrath, Mr. Rajat Navet, Mr. Kushagra Pandit, Mr. Arjun Gaur, Mr. Vimal Nagrath, Mr. Vinod Kumar and Mr. Rajat Gupta, Advs.

versus

NEW DELHI MUNICIPAL COUNCIL & ORS. ..... Respondents

Through: Mr. Sanjay Singh, SC for MCD alongwith Mr. Pardeep Suhag and Mr. Yogesh Suhag, Advs.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

1. The present petition assails a sealing notice dated 21.02.2024, as also an attachment order dated 16.02.2024 issued under Section 102 of the New Delhi Municipal Council Act, 1994 ("NDMC Act") in respect of property bearing no.E-6 & 7, Connaught Place, New Delhi.

2. The petitioners also assail the demand notices dated 25.03.2023, 30.03.2017 and 30.03.2011.

3. The basis of the impugned sealing/attachment action and the demand notices is an order dated 15.11.2023 passed under Section 72 of the NDMC Act, which has been handed over by the learned counsel for the respondents during the course of hearing. The same reads as under :-

"NEW DELHI MUNICIPAL COUNCIL
PALIKA KENDRA: NEW DELHI
PROPERTY TAX DEPARTMENT

A.O. NO. 462/T.I.-01/JD(Tax)/2023
Dated:- 5.11.2023

Premises No.	*E-6, 7& others, E-Block, Connaught Place, New Delhi*
Name of the Owner as per record	*M/s Puri Investment*
PID no.	*P-5838*
Existing Rateable Value	*Rs. 2,98,03,300/- w.e.f 01.11.2006*

Order U/s 72 of the NDMC Act-1994

Three Notice(s) dated 30.03.2011, 30.03.2017 & 25.03.2023 u/s 72 of the NDMC Act-1994 were issued to the recorded owner with a proposal to revise Rateable Value at Rs. 3,46,68,000/- w.e.f 01.04.2010, at Rs. 21, 14,87,800/- w.e.f 01.04.2016 and Rs. 25, 82,46,100/- w.e.f 01.04.2022 onwards on comparable rent basis as per the provision of section 63(1) of the NDMC Act – 1994.

2. For disposal of said notice(s), hearing were provided to the recorded owner on 11.08.2023 and 07.11.2023. Neither the Assesse has appeared for hearing nor has any objection against the notice issued u/s 72 of the NDMC Act been received by the department. Therefore, NDMC is constrained to issue this assessment order on the basis of information available on record, as the matter cannot be kept pending perpetuity.

3. Accordingly, Rateable Value is fixed at Rs.3,46,68,000/- w.e.f. 01.04.2010 to 31.03.2016, at Rs. 21,14,87,800/- w.e.f. 01.04.2016 to 31.03.2022 and at Rs.25,82,46,100/- w.e.f. 01.04.2022 onwards. This order decides Notice(s) dated 30.03.2011, 30.03.2017 & 25.03.2023 issued u/s 72 of the NDMC Act-1994.

4. Assessed accordingly and issued revised bill.

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Assessing Authority (Tax)"

4. As can be seen, para 2 of the aforesaid order records that "neither the assesse has appeared for hearing nor has any objection against the notice

issued under Section 72 of the NDMC Act been received by the department".

5. Learned counsel for the petitioners submits that no opportunity of hearing whatsoever was afforded by the respondents/NDMC to the petitioners. He further draws attention to the fact that detailed and elaborate objections were submitted by the petitioners to the Director (Tax) of the respondents on 01.05.2023, which were duly received by the Director (Tax), as is evident from the stamp/acknowledgment of the NDMC on a copy thereof, at the time of submission. The same has been filed as Annexure P-3 to the present petition.

6. It is quite evident from a perusal of the aforesaid Annexure P-3 that objections were duly submitted by the petitioners. However, the order under Section 72 of the NDMC Act wrongly records that no objections have been received by the department. It is evident, therefore, that the order under Section 72 of the NDMC Act has been passed without complying with the principles of natural justice.

7. In view of the aforesaid, at this stage, learned counsel for the respondents submits that without prejudice to the rights and contentions of the respondents, the order dated 15.11.2023 under Section 72 of the NDMC Act, be treated as withdrawn.

8. It is agreed by the respective counsel for the parties that the respondent/NDMC shall pass a fresh order taking into account the contentions raised by the petitioners in the present petition, and after affording an opportunity of hearing to the petitioners. It is directed accordingly.

9. Respective counsel for the parties are also in agreement that a hearing

shall be afforded to the petitioners by the concerned Director (Tax) of the respondent/NDMC on 01.05.2024 at 03:00 pm. A fresh order under Section 72 of the NDMC Act shall be passed within a period of four weeks thereafter.

10. Since, the impugned sealing/attachment action has been taken on the basis of the order dated 15.11.2023 passed under Section 72 of the NDMC Act which stands withdrawn, the sealing notice and the attachment action qua the property in question shall also be withdrawn forthwith. The seals that have been put by the respondent/NDMC on the property in question shall be removed within a period of one week from today.

11. Needless to say, upon conclusion of the aforesaid exercise and passing of a fresh order under Section 72 of the NDMC Act, the respondent/NDMC shall be entitled to take further steps, in accordance with law, for recovery of any arrears of property tax. Likewise, if the petitioner is aggrieved with the aforesaid exercise, it shall be at liberty to avail the statutorily prescribed appellate remedy and/or such remedy as may be available to it under law.

SACHIN DATTA, J

APRIL 24, 2024/r