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

\+ W.P.(C) 3694/2024

DRUV KUMAR TULLI ..... Petitioner

Through: Mr. Kshitij Mahipal and Ms. Khairun Nisa, Advs.

versus

MUNICIPAL CORPORATION OF DELHI AND ANR ..... Respondents

Through: Ms. Sunita Ojha, SC along with Ms. Vasudha Priyansh, Adv. for MCD.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

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

% **13.03.2024**

<u>CM APPL.15191/2024 (Exemption)</u>

Allowed, subject to all just exceptions.

Application stands disposed of.

<u>W.P.(C) 3694/2024</u>

1. The present petition assails the Assessment Order dated 15.01.2024, under Section 123D of the DMC Act, 2003 as also the Property Tax Bill of Rs.53,72,025/- raised by the respondent/MCD.

2. It is contended by learned counsel for the petitioner that the impugned property tax bill has been issued illegally and arbitrarily. He submits that while passing the Assessment Order under Section 123D of DMC Act, 2003, the respondent/MCD has failed to consider that the property in question was a residential property which was demolished in 2017 and that after taking permission from the respondent no.2, the petitioner re-constructed the

building upto third floor and also stilt parking.

3. The aforesaid re-construction is stated to have been completed only in September, 2021 and occupancy certificate was issued thereafter on 26.09.2021. It is further submitted that prior to 2017, only a single storey structure was in existence. Despite the same, the impugned property tax demand has been raised for the period 01.04.2004 to 31.03.2013 without taking note of the aforesaid circumstances.

4. It is also submitted that the petitioner himself had voluntarily deposited the tax under the residential category till 2021-2022 on self-assessment basis and there was no commercial use of the said property till completion of the building in 2021.

5. In addition, the petitioner also assails the impugned Assessment Order dated 15.01.2024 on the ground that the same was passed without affording an opportunity of hearing to the petitioner.

6. Issue notice.

7. Learned counsel, as aforesaid, appears and accepts notice on behalf of the respondent.

8. Learned counsel for the respondent refutes the aforesaid contentions of the petitioner. It is further submitted that no hearing could be afforded to the petitioner prior to passing of the impugned assessment order because the petitioner did not appear before the concerned Deputy Assessor & Collector.

9. Be that as it may, learned counsel for the respondent submits that the present petition would be treated as a representation by the MCD and an opportunity of hearing shall be given to the petitioner whereupon a reasoned order shall be passed and, if necessary, the Assessment Order and/ or the demand raised on the petitioner, shall be suitably revised in case merit is

found in the contentions raised by the petitioner. It is directed accordingly.

10. It is further agreed by respective counsel for the parties that the petitioner shall appear before the Deputy Assessor & Collector on 02.04.2024 at 02.30PM. A reasoned order shall be passed within a period of four weeks thereafter. It is directed accordingly.

11. Till conclusion of the aforesaid exercise, no coercive steps shall be taken by the respondent against the petitioner.

12. Learned counsel for the petitioner undertakes that the petitioner shall permit inspection of the concerned premises by the MCD and should also provide such documents that may be sought by the concerned Deputy Assessor and Collector.

13. With the aforesaid directions, the present petition stands disposed of.

SACHIN DATTA, J

MARCH 13, 2024/cl