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

\+ W.P.(C) 6378/2024

M/S DECENT BUILDERS PVT. LTD. ..... Petitioner

Through: Mr. Harish Malhotra, Sr. Adv. alongwith Mr. Aditya Malhotra, Ms. Tripti Kapoor and Mr. Anoop Kumar, Advs.

versus

NEW DELHI MUNICIPAL COUNCIL ..... Respondent

Through: Mr. Sanjay Sharma, Addl. Standing Counsel alongwith Ms. Shilpa Ohri, Asst. Standing Counsel and Mr. Pardeep Suhag, Advs.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **06.05.2024**

CM APPL. 26508/2024 (Exemption from filing original/ dim documents)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 6378/2024&CM APPL. 26507/2024 (Stay)

1. The present petition assails an assessment order dated 16.01.2018 passed by the respondent (NDMC) under Section 72 of the New Delhi Municipal Council Act, 1994 ("NDMC Act"), as also a notice for attachment of property dated 12.03.2024.

2. Learned senior counsel for the petitioner contends that the assessment order dated 16.01.2018 is completely without authority of law, being in utter contravention of the dicta laid down by a Division Bench of this Court in ***Ved Marwah v. New Delhi Municipal Council,*** 2018 SCC OnLine Del 8096.

3. It is also contended that the impugned assessment order itself was

passed without affording an opportunity of hearing to the petitioner. Numerous representations are stated to have been made by the petitioner in the aftermath of the said assessment order, the latest being a representation dated 14.03.2024. Admittedly, the said representations have not yet been decided.

4. Issue notice.

5. Learned counsel, as aforesaid, accepts notice on behalf of the respondent.

6. Learned counsel for the respondent strongly refutes the contentions made by the learned senior counsel for the petitioner. He contends that the present petition challenging the aforesaid assessment order dated 16.01.2018 is belated. He further submits that the demand has been worked out on the basis of the said assessment order, which correctly works out the rateable value of the property in question. He further draws attention to the fact that the arrears of the property tax amounts approximately to the tune of Rs.4.4 crores as mentioned in the attachment notice issued under Section 100 (1) of the NDMC Act.

7. After some hearing, respective counsel for the parties are in agreement that subject to the petitioner's paying an amount of Rs.75 Lakhs to the respondent (NDMC), within a period of one week from today, the respondent shall decide the representation dated 14.03.2024 of the petitioner by passing a speaking order after affording an opportunity of hearing to the petitioner. It is directed accordingly.

8. It is further agreed that the hearing shall be afforded by the concerned Deputy Director (Tax) of the respondent (NDMC) on 14.05.2024 at 03:00pm. The petitioner shall produce all the relevant documents at the time

of hearing. A speaking order shall be passed by the concerned Deputy Director (Tax), within a period of three weeks thereafter. Further, if so warranted at the conclusion of the aforesaid exercise, the assessment order dated 16.01.2018 shall be duly amended/ rectified.

9. Needless to say, upon conclusion of the aforesaid exercise, the respondent shall be entitled to enforce the remaining outstanding demand, if any, against the petitioner, in accordance with law. Equally, if the petitioner is aggrieved with the outcome of the aforesaid exercise, it shall be entitled to avail appropriate statutory/ legal remedies, in accordance with law.

10. Till conclusion of the aforesaid exercise and subject to payment of the aforesaid amount of Rs.75 Lakhs, no coercive/precipitative steps shall be taken by the respondent (NDMC) *qua* the property in question. It is also clarified that the payment/deposit by the petitioner of the aforesaid amount of Rs.75 Lakhs is without prejudice to the rights and contentions of the petitioner.

11. With the aforesaid directions, the present petition, along with the pending application/s, stands disposed of.

SACHIN DATTA, J

MAY 6, 2024/r