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

\+ W.P.(C) 6531/2024 &CM APPL. 27262/2024 (Stay)

ANUP KUMAR ..... Petitioner

Through: Mr. Manoj Kumar, Adv. alongwith Mr. Ajay Sharma, Mr. Abhishek, Advs. alongwith petitioner in person.

versus

MUNICIPAL CORPORATION OF DELHI ..... Respondent

Through: Mr. Manoviraj Singh, Adv. for Mr. Tushar Sannu, SC for MCD.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% **13.05.2024**

1. The present petition has been filed by the petitioner assailing a notice dated 10.04.2024 bearing No.TAX/CSPZ/2023-24/045071 issued *qua* the property bearing No.20, Block-O, New Aruna Nagar, Majnu Ka Tila, Civil Lines, Delhi-110054.

2. *Vide* the said notice dated 10.04.2024 issued under Sections 156 and 446 of the Delhi Municipal Corporation Act, 1957, a sum of Rs.3,99,671/- has been demanded from the petitioner (inclusive of interest and penalty) towards the property tax dues in respect of the property in question. The demand is based on a *suo moto* assessment order dated 15.02.2024 which works out the annual value of the property in question for the period 01.04.2004 to 2022-2023.

3. Learned counsel for the petitioner contends that the invocation of Section 123D in the present case is completely unjustified. It is submitted

that a notice dated 06.09.2023 issued under Section 123D of the DMC Act (which culminated in the assessment order dated 15.02.2024) does not even purport to disclose any incorrect/false declaration submitted by the petitioner in respect of his property tax returns for the period 2004-2005 to 2022-2023.

4. It is further contended that the order under Section 123D itself was issued without affording an opportunity of hearing to the petitioner.

5. Learned counsel for the petitioner contends that after the receipt of the *suo moto* assessment order dated 15.02.2024, the petitioner has submitted a representation dated 26.03.2024. However, without considering the same, the respondent has proceeded to issue notices dated 15.03.2024 and 10.04.2024 seeking to recover the outstanding demand of Rs.3,99,671/- from the petitioner.

6. Learned counsel for the respondent does not dispute that the *suo motu* assessment order was passed without actually affording any hearing to the petitioner.

7. Admittedly also, the representation submitted by the petitioner on 26.03.2024 remains undecided.

8. After some hearing, respective counsel for the parties are in agreement that subject to the petitioner paying 50% of the demanded amount to the MCD within a period of one week from today, the respondent/MCD would treat the present petition itself as a representation and pass a speaking order thereon after affording an opportunity of hearing to the petitioner. If deemed necessary upon conclusion of the aforesaid exercise, the *suo motu* assessment order dated 15.02.2024 and consequential demands shall be suitably revised. It is directed accordingly.

9. It is agreed by the respective counsel for the parties that the hearing

shall be afforded to the petitioner by the Joint Assessor and Collector on 21.05.2024 at 02.00 PM and a speaking order shall be passed within a period of four weeks thereafter.

10. Subject to the petitioner paying 50% of the demanded amount within a period of one week from today, no coercive/precipitative steps shall be taken by the respondent/MCD, till conclusion of the aforesaid exercise. Needless to say, the said payment shall be without prejudice to the rights and contentions of the petitioner.

11. Further, upon conclusion of the aforesaid exercise, the respondent shall be entitled to enforce the remaining outstanding demands against the petitioner. Equally, if the petitioner is aggrieved with the outcome of the aforesaid exercise, it shall be at liberty to avail appropriate remedies in accordance with law.

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

SACHIN DATTA, J

MAY 13, 2024/r