$~96

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

\+ W.P.(C) 6675/2024, CM APPL. 27814/2024

SAROJ TANDON & ORS. ..... Petitioners

Through: Mr. M. A. Niyazi, Ms. Anamika Ghai Niyazi, Ms. Kirti Bhardwaj, Ms. Nehmat Setia and Mr. Arquam Ali, Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL ..... Respondent

Through: Mr. Sanjay Sharma, ASC alongwith Mr. Raghav Alok and Mr. Anand Kumar Sharma, Advs.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% **16.05.2024**

1. The present petition has been filed by the petitioners seeking that the respondent/NDMC be directed to provide to the petitioners, the copy of the proposed "Assessment List" for the year 2024-25. Further, it has been sought that the prescribed date for filing objections, as contemplated under Section 70 of the NDMC Act, 1994, be extended for a reasonable period after the supply of the proposed "Assessment List" to the petitioners.

2. The petition has been filed by the three petitioners having properties in the Khan Market area who are stated to have failed to obtain, through their respective representatives, the proposed "Assessment List" for the assessment year 2024-25, from the office of NDMC.

3. The rationale for seeking the "Assessment List" is that there are huge variations in the rateable value of similarly situated properties on account of

the fact that the NDMC allegedly follows different method of determining rateable value in respect of similar properties. It is submitted that the refusal on the part of the MCD to supply the proposed "Assessment List" for the year 2024-25, causes grave prejudice to the petitioners inasmuch as it defeats their rights to file their objections pursuant to the public notice issued on 12.04.2024. The said public notice reads as under:-

"NEW DELHI MUNICIPAL COUNCIL
OFFICE OF THE DIRECTOR (TAX)
PALIKA KENDRA, NEW DELHI

PUBLIC NOTICE

It is hereby brought to the notice of the general public and all concerned that In pursuance of Section-70 of the NDMC Act, 1994 (hereinafter referred to as the Act) the Assessment List(or the year 2024-2025 of all lands and buildings in NDMC area is available for inspection in Room No 9006, 9th Floor Palika Kendra, Sansad Marg, New Delhi. It is proposed to adopt the Assessment List as amended till 10/04/2024 under Section 73 of the Act after suitable amendments, if any, under order of the Court of Under Section 72 of the Act or after assessment of the Rateable Value.

2, Every person claiming to be owner, lessee or occupier of any land or building in NDMC area included in the Assessment List and any authorized agent of such person may inspect the list in Property Tax Department of NDMC and take extracts from the same, free of charges. Owners can also check their details on NDMC Website www.ndmc.gov.in with already given 1.0. (P.I.D No.) and password (D&C No.) without paying visit to NDMC building.

3. Owners may file their objections, if any, against the list. Objections received in response to this Public Notice upto 15.05.2024 shall be duly considered. However, objections received prior to 15.04.2024 or after 15.05.2024 shall not be taken into consideration for the exercise. Objections must be made in prescribed performa available on NDMC website and submitted in Room No. 9006 at 9th Floor, Palika Kendra, NDMC, New Delhi, on all working days between 10:00 A.M. to 1:00 P.M. or send e-mail address at director.tax@ndmc.qov.in.

4. Objections to the Assessment List are not necessary, where the *rateable value is likely to be revised with retrospective effect as a consequence of decision on pending notices issued under Section 72 of the Act or in remand back cases or with any directions/ orders passed by any competent Court of Law in any case. Assessment List in all such cases is provisional only and are subject to finalization as per legal provisions."*

4. At the outset, the relevant statutory provisions of the NDMC Act, 1994, which fall for consideration for the purpose of adjudging the prayers sought in the present petition, may be taken note of. The same are reproduced hereunder:-.

"70. Assessment list.
(1) Save as otherwise provided in this Act, the Council shall cause an assessment list of all lands and buildings in New Delhi to be prepared in such form and manner and containing such particulars with respect to each land and building as may be prescribed by bye-laws.
(2) When the assessment list has been prepared the Chairperson shall give public notice thereof and of the place where the list or a copy thereof may be inspected, and every person claiming to be the owner, lessee or occupier of any land or building included in the list and any authorised agent of such person, shall be at liberty to inspect the list and to take extracts therefrom free of charge.
(3) The Chairperson shall, at the same time, give public notice of a date, not less than one month thereafter, when he will proceed to consider the rateable values of lands and buildings entered in the assessment list; and in all cases in which any land or building is for the first time assessed, or the rateable value of any land or building is increased, he shall also give written notice thereof to the owner or to any lessee or occupier of the land or building.
(4) Any objection to a rateable value or any other matter as entered in the assessment list shall be made in writing to the Chairperson before the date fixed in the notice and shall state in what respect the rateable value, or other matter is disputed, and all objections so made shall be recorded in a register to be kept for the purpose.
(5) The objections shall be inquired into and investigated, and the persons making them shall be allowed an opportunity of being heard either in person or by authorised agent, by the Chairperson or by any officer of the Council authorised in this behalf by the Chairperson.
(6) When all objections have been disposed of, and the revision of the rateable value has been completed, the assessment list shall be authenticated by signature of the Chairperson or, as the case may be, the officer authorised by him in this behalf, who shall certify that except

in the case, if any in which amendments have been made as shown therein, no valid objection has been made to the rateable value or any other matter entered in said list.

(7) The assessment list so authenticated shall be deposited in the office of the Council and shall be open, free of charge during office hours to all owners, lessees and occupiers of lands and buildings comprised therein or the authorised agents of such persons, and a public notice that it is so open shall forthwith be published.

71. Evidential value of Assessment List.—Subject to such alterations as may thereafter be made in the Assessment List under section 72 and to the result of any appeal made under the provisions of this Act, the entries in the Assessment List authenticated and deposited as provided in section 70 shall be accepted as conclusive evidence for the purpose of assessing any tax levied under this Act, of the rateable value of all lands and buildings to which such entries respectively relate.

72. Amendment of Assessment List.—(1) The Chairperson may, at any time, amend the Assessment List—

(a) by inserting therein the name of any person whose name ought to be inserted; or

(b) by inserting therein any land or building previously omitted; or

(c) by striking out the name of any person not liable for the payment of property tax; or

(d) by increasing or reducing for adequate reasons the amount of any rateable value and of the assessment thereupon; or

(e) by making or cancelling any entry exempting any land or building from liability to property tax; or

(f) by altering the assessment on the land or building which has been erroneously valued or assessed through fraud, mistake or accident; or

(g) by inserting or altering an entry in respect of any building erected, re-erected, altered or added to, after the preparation of the Assessment List:

Provided that no person shall by reason of any such amendment become liable to pay any tax or increase of tax in respect of any period prior to the commencement of the year in which the notice under sub-section (2) is given.

(2) Before making any amendment under sub-section (1) the Chairperson shall give to any person affected by the amendment, notice of not less than one month that he proposes to make the amendment and consider any objection which may be made by such person.

73. Preparation of new Assessment List.—It shall be in the discretion of *the Chairperson to prepare for the whole or any part of New Delhi, a new Assessment List every year or to adopt the rateable value contained in the list for any year, with such alterations as may in particular cases be deemed necessary, as the rateable value for the year following, giving the same public notice as well as individual notices, to persons affected by such alterations, of the rateable value as if a new Assessment List had been prepared."*

5. From the perusal of the aforementioned statutory provisions, it is evident that whenever an "Assessment List" is sought to be prepared for any particular year, it is incumbent on the Chairperson/NDMC to give public notice thereof. Every person claiming to be the owner/lessor/occupier of any land/building included in the list shall be at liberty to inspect the said "Assessment List" and take extracts thereof, free of charge. This right to inspect or to take extracts thereof is unhedged and can be exercised by any owner/occupier/lesser.

6. Further, under Section 70(3), it is obligatory for the Chairperson/NDMC to give public notice of not less than one month in respect of the rateable values of lands/buildings entered in the proposed "Assessment List". The purport to this is to enable owner/occupier/lessees to submit their objections to the rateable value or any other matter pertaining to the "Assessment List". Section 70 (5) of the Act further contemplates that the objections that may be submitted shall be inquired into and investigated and the person making them, shall be afforded an opportunity of hearing either in person or through any authorised agent.

7. Learned counsel for the respondent/NDMC does not dispute that the petitioners are entitled to take inspection or to take relevant extract/s of the proposed "Assessment List". Despite this position being uncontroverted, it appears that upon the petitioners making a request in this regard [vide

Annexure P10 (colly.)], no response thereto was given by the NDMC even though the last date for filing objections in terms of public notice is 15.05.2024. The petitioners have specifically sought "the copy of the proposed Assessment List pertaining to all properties in Khan Market and all properties in Connaught Place, namely, inner circle, outer circle, Parliament Street, Janpath and Barakhamba Road, New Delhi, for the year 2024 – 2025". Certain extracts of the "Assessment List" were also sought in respect of certain specific PID numbers.

8. Since the statutory entitlement of the petitioners to obtain copies of the "Assessment List" is not refuted by the learned counsel for the respondent and also clearly flows from the above mentioned statutory provisions, it is directed that the relevant extracts of the said "Assessment List", as sought by the petitioners, shall be provided by the respondent/NDMC to the petitioners expeditiously, and in any event within a period of one week from today.

9. Further, since the petitioners have a right to file objections under Section 70(3) r/w 70 (4) of the NDMC Act, 1994 and since the NDMC has been remiss in responding to/acceding to the timely request made by the petitioner pursuant to issuance of the aforesaid public notice, the petitioners shall be entitled to file their objections to the said public notice, within a period of one week from the date of receipt by the petitioners of the relevant extracts of the "Assessment List", as sought by them. The time period/deadline contemplated in the public notice dated 12.04.2024 for submission of objections stands extended accordingly.

10. Needless to say, any objection that may be filed by the petitioners shall be considered in accordance with the statutory prescriptions, including Section 70(5) of the NDMC Act, 1994. Further a copy of the duly

authenticated, finalized Assessment List shall also be made available to the petitioners for inspection, as contemplated under Section 70(7) of the NDMC Act, 1994.

11. Learned counsel for the petitioners does not press for any other prayer/directions except emphasizing that NDMC must be scrupulous in adhering to the above noted statutory provisions so that the petitioners are not constrained to file writ petitions every year seeking enforcement of their statutory rights. Needless to say, it is incumbent on the respondent/NDMC to adhere to the relevant statutory provisions without fail, and to ensure their meaningful implementation.

12. The present petition, alongwith all pending applications stands disposed of in the above terms.

SACHIN DATTA, J

MAY 16, 2024/at