



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
BEFORE
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

+ W.P.(C) 13465/2021, CM APPLs. 42465/2021, 12479/2024 &
12480/2024

HARSH VARDHAN BANSAL Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION AND ANR

.....Respondents

Through: Mr. Manu Chaturvedi, Adv. for
MCD with Ms. Devika Singh
Roy Chowdhury, Advs.
Ms. Hetu Arora Sethi, ASC,
GNCTD with Mr. Prakhar,
Adv.
Mr. Tushar Sannu, Standing
counsel for MCD with Mr.
Manoviraj Singh, Advs.

+ W.P.(C) 9658/2019, CM APPL. 39894/2019

RITA CHHAWCHHARIA & ORS. Petitioner

Through: Ms. Sonali Malhotra, Ms.
Ritika Sharma and Ms. Sakshi
Singh, Advs

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI

..... Respondent

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO
Mr. Divyam Nandrajog, PC for
GNCTD with Mr. Prakhyat
Gargasya, Adv.

+ W.P.(C) 9659/2019, CM APPL. 39897/2019

BAJAJ JEWELLS INDIA (P) LTD THROUGH ITS DIRECTOR

..... Petitioner

Through: Ms. Sonali Malhotra, Ms.
Ritika Sharma and Ms. Sakshi
Singh, Advs

Versus

EAST DELHI MUNICIPAL OF DELHI THROUGH ITS
ASSTT. ASSESSOR & COLLECTOR

..... Respondent

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO
Mr. Divyam Nandrajog, PC for
GNCTD with Mr. Prakhyat
Gargasya, Adv.

+ W.P.(C) 13462/2021, CM APPL. 42456/2021

NARESH KUMAR AGGARWAL

..... Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.

Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION AND ANR.

..... Respondents

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

Mr. Tushar Sannu, Standing
counsel for MCD with Mr.
Manoviraj Singh, Advs.

+ W.P.(C) 13463/2021, CM APPL. 42459/2021

SAVITRI MITTAL

..... Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr.
Sahil Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION AND ANR.

..... Respondents

Through: Mr. Manu Chaturvedi, Adv. for
MCD with Ms. Devika Singh
Roy Chowdhury, Advs.

Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

Ms. Hetu Arora Sethi, ASC,
GNCTD with Mr. Prakhar,
Adv.

+ W.P.(C) 2394/2021, CM APPL. 6962/2021

RAKESH NANDA & ANR. Petitioners

Through: Mr. Arjun Nanda, Mr. Aman
Nandrajog and Mr. Harsh
Vardhan Sharma, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION
Respondent

Through: Mr. Manu Chaturvedi, Adv. for
MCD with Ms. Devika Singh
Roy Chowdhury, Advs.

Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

+ W.P.(C) 2790/2022, CM APPL. 8046/2022

NARESH MALHOTRA AND ORS. Petitioners

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI
AND ANR.

..... Respondents

Through: Mr. Manu Chaturvedi, Adv. for
MCD with Ms. Devika Singh
Roy Chowdhury, Advs.

Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

+ W.P.(C) 2864/2022, CM APPL. 8279/2022

GULSHAN CHAWLA AND ANR. Petitioners

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI
AND ANR. Respondents

Through: Mr. Manu Chaturvedi, Adv. for
MCD with Ms. Devika Singh
Roy Chowdhury, Advs.

Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

+ W.P.(C) 2868/2022, CM APPL. 8294/2022

NEELAM JAIN ANR. Petitioners

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI
AND ANR. Respondents

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO
Mr. Saroj Bidawal, SC

+ W.P.(C) 2869/2022, CM APPL. 8297/2022

HARISH CHAWLA Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI
AND ANR. Respondents

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO
Mr. Divyam Nandrajog, PC for
GNCTD with Mr. Prakhyat
Gargasya, Adv.

+ W.P.(C) 2875/2022, CM APPL. 8313/2022

M S AGGARWAL PLAZA PRIVATE LIMITED Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

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

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

Mr. Divyam Nandrajog, PC for
GNCTD with Mr. Prakhyat
Gargasya, Adv.

+ W.P.(C) 13912/2019, CM APPL. 55757/2019

SH. SUBHASH JAIN AND ANR. Petitioners

Through: *Counsel (appearance not given)*

Versus

EAST DELHI MUNICIPAL CORPORATION AND ANR.

.... Respondents

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

Mr. Namrata Mukim SC for
MCD with Ms. Rupali Gupta
Adv

+ W.P.(C) 624/2020, CM APPL. 1714/2020

M/S BASANT PROJECTS LIMITED Petitioner

Through: *Counsel (appearance not given)*

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI
AND ANR. Respondents

Through: Mr. Tarun Johri, Mr. Ankur
Gupta and Mr. Vishwajeet
Tyagi, Advs. for DMRC
Ms. Sunieta Ojha, Standing
counsel for MCD with Ms.
Vasudha, Advs.

Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

Mr. Divyam Nandrajog, PC for
GNCTD with Mr. Prakhyat
Gargasya, Adv.

+ W.P.(C) 6151/2020, CM APPL. 22056/2020

M/S AVG LOGISTICS LIMITED Petitioner

Through: Ms. Sonali Malhotra, Ms.
Ritika Sharma and Ms. Sakshi
Singh, Advs

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI &
ANR. Respondents

Through: Mr. Tarun Johri, Mr. Ankur
Gupta and Mr. Vishwajeet
Tyagi, Advs. for DMRC
Ms. Sunieta Ojha, Standing
counsel for MCD with Ms.
Vasudha, Advs.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Adv. for SHO

+ W.P.(C) 6212/2020, CM APPL. 22251/2020

M/S AVG LOGISTICS LIMITED Petitioner

Through: Ms. Sonali Malhotra, Ms.
Ritika Sharma and Ms. Sakshi
Singh, Advs

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI &
ANR. Respondents

Through: Mr. Tarun Johri, Mr. Ankur Gupta and Mr. Vishwajeet Tyagi, Advs. for DMRC
Ms. Sunieta Ojha, Standing counsel for MCD with Ms. Vasudha, Advs.
Ms. Rachita Garg, Mr. Agam Rajput and Ms. Preeti Chauhan, Advs. for SHO

+ W.P.(C) 7867/2020, CM APPL. 25804/2020

M/S AVG LOGISTICS LIMITED Petitioner

Through: Ms. Sonali Malhotra, Ms. Ritika Sharma and Ms. Sakshi Singh, Advs

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI & ANR. Respondents

Through: Mr. Tarun Johri, Mr. Ankur Gupta and Mr. Vishwajeet Tyagi, Advs. for DMRC
Ms. Sunieta Ojha, Standing counsel for MCD with Ms. Vasudha, Advs.
Ms. Rachita Garg, Mr. Agam Rajput and Ms. Preeti Chauhan, Advs. for SHO

+ W.P.(C) 7868/2020, CM APPL. 25808/2020

M/S AVG LOGISTICS LIMITED Petitioner

Through: Ms. Sonali Malhotra, Ms. Ritika Sharma and Ms. Sakshi Singh, Advs

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By: PURUSHAINDRA
KUMAR RAURAV

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI &
ANR. Respondents

Through: Mr. Tarun Johri, Mr. Ankur
Gupta and Mr. Vishwajeet
Tyagi, Advs. for DMRC
Ms. Sunieta Ojha, Standing
counsel for MCD with Ms.
Vasudha, Advs.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

+ W.P.(C) 7869/2020, CM APPL. 25812/2020

M/S AVG LOGISTICS LIMITED Petitioner

Through: Ms. Sonali Malhotra, Ms.
Ritika Sharma and Ms. Sakshi
Singh, Advs

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI &
ANR. Respondents

Through: Mr. Tarun Johri, Mr. Ankur
Gupta and Mr. Vishwajeet
Tyagi, Advs. for DMRC
Ms. Sunieta Ojha, Standing
counsel for MCD with Ms.
Vasudha, Advs.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

+ W.P.(C) 7884/2020, CM APPL. 25845/2020

M/S AVG LOGISTICS LIMITED Petitioner

Through: Ms. Sonali Malhotra, Ms.
Ritika Sharma and Ms. Sakshi
Singh, Advs

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KUMAR RAURAV

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI &
ANR. Respondents

Through: Mr. Tarun Johri, Mr. Ankur
Gupta and Mr. Vishwajeet
Tyagi, Advs. for DMRC
Ms. Sunieta Ojha, Standing
counsel for MCD with Ms.
Vasudha, Advs.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

+ W.P.(C) 6656/2021, CM APPL. 20960/2021

D C M LTD. Petitioner

Through: Ms. Sonali Malhotra, Ms.
Ritika Sharma and Ms. Sakshi
Singh, Advs

Versus

NORTH DELHI MUNICIPAL CORPORATION AND ANR.

.... Respondents

Through: Ms. Sunieta Ojha, Standing
counsel for MCD with Ms.
Vasudha, Advs.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

+ W.P.(C) 13219/2021, CM APPL. 41725/2021, CM APPL.
3178/2022

ISHWAR CHAND MITTAL Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh Sawhney, Mr. Nishant Gupta, Mr. Akash Tiwari, Mr. Shivanshu Singh and Mr. Sahil Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION AND ANR.

..... Respondents

Through: Ms. Rachita Garg, Mr. Agam Rajput and Ms. Preeti Chauhan, Advs. for SHO

Mr. Tushar Sannu, Standing counsel for MCD with Mr. Manoviraj Singh, Advs.
Mr. Divyam Nandrajog, PC for GNCTD with Mr. Prakhyat Gargasya, Adv.

+ W.P.(C) 13222/2021, CM APPL. 41730/2021, CM APPL. 3159/2022

RENU AGGARWAL

..... Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh Sawhney, Mr. Nishant Gupta, Mr. Akash Tiwari, Mr. Shivanshu Singh and Mr. Sahil Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION AND ANR.

..... Respondents

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KUMAR RAURAV

Through: Mr. Manu Chaturvedi, Adv. for
MCD with Ms. Devika Singh
Roy Chowdhury, Advs.

Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

+ W.P.(C) 13224/2021, CM APPL. 41735/2021, CM APPL.
3162/2022

BABITA MITTAL

..... Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION AND ANR.

..... Respondents

Through: Mr. Manu Chaturvedi, Adv. for
MCD with Ms. Devika Singh
Roy Chowdhury, Advs.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

+ W.P.(C) 13225/2021, CM APPL. 41740/2021, CM APPL.
3064/2022

BABITA MITTAL

..... Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION AND ANR.

..... Respondents

Through: Mr. Manu Chaturvedi, Adv. for
MCD with Ms. Devika Singh
Roy Chowdhury, Advs.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

+ W.P.(C) 13440/2021, CM APPL. 42362/2021, CM APPL.
3163/2022

ISHWER CHAND MITTAL

..... Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI
AND ANR.

..... Respondents

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO
Mr. Tushar Sannu, Standing
counsel for MCD with Mr.
Manoviraj Singh, Advs.
Mr. Divyam Nandrajog, PC for
GNCTD with Mr. Prakhyat
Gargasya, Adv.

+ W.P.(C) 13464/2021, CM APPL. 42462/2021

MUKESH MITTAL

..... Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,

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KUMAR RAURAV

Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION AND ANR.

..... Respondents

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO
Mr. Tushar Sannu, Standing
counsel for MCD with Mr.
Manoviraj Singh, Advs.

+ W.P.(C) 13468/2021, CM APPL. 42469/2021

SAVITRI MITTAL

..... Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION AND ANR.

..... Respondents

Through: Mr. Manu Chaturvedi, Adv. for
MCD with Ms. Devika Singh
Roy Chowdhury, Advs.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO
Mr. Tushar Sannu, Standing

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KUMAR RAURAV

counsel for MCD with Mr.
Manoviraj Singh, Advs.

+ W.P.(C) 13470/2021, CM APPL. 42473/2021

MUKESH MITTAL

..... Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION AND ANR.

..... Respondents

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms.Preeti Chauhan,
Advs.for SHO
Mr. Tushar Sannu, Standing
counsel for MCD with Mr.
Manoviraj Singh, Advs.

+ W.P.(C) 13490/2021, CM APPL. 42554/2021

NARESH KUMAR AGGARWAL

..... Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION AND ANR.

..... Respondents

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms.Preeti Chauhan,

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KUMAR RAURAV

Advs.for SHO
Mr. Tushar Sannu, Standing
counsel for MCD with Mr.
Manoviraj Singh, Advs.

+ W.P.(C) 1430/2022, CM APPL. 4167/2022

RAM SWAROOP JASWAL Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI
AND ANR.

..... Respondents

Through: Mr. Manu Chaturvedi, Adv. for
MCD with Ms. Devika Singh
Roy Chowdhury, Advs.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms.Preeti Chauhan,
Advs.for SHO

+ W.P.(C) 2865/2022, CM APPL. 8286/2022

NIRMAL JAIN AND ANR. Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI
AND ANR. Respondents

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO
Mr. Saroj Bidawal, SC

+ W.P.(C) 2867/2022, CM APPL. 8291/2022 - STAY

RAJNI CHAWLA Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI
AND ANR. Respondents

Through: Mr. Manu Chaturvedi, Adv. for
MCD with Ms. Devika Singh
Roy Chowdhury, Advs.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms. Preeti Chauhan,
Advs. for SHO

+ W.P.(C) 4169/2022, CM APPL. 12509/2022

SHREE LAKSHMI ROAD TRANSPORT CORPORATION
(REGD.) & ANR. Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION & ANR.

..... Respondents

Through: Ms. Rachita Garg, Mr. Agam
Rajput and Ms.Preeti Chauhan,
Advs.for SHO
Mr. Saroj Bidawal, SC

+ W.P.(C) 4374/2022, CM APPL. 13035/2022

SHASHI KANT CHAWLA AND ORS. Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION OF DELHI
AND ANR. Respondents

Through: Mr. Manu Chaturvedi, Adv. for
MCD with Ms. Devika Singh
Roy Chowdhury, Advs.

Ms. Rachita Garg, Mr. Agam
Rajput and Ms.Preeti Chauhan,
Advs.for SHO

+ W.P.(C) 4051/2023, CM APPL. 15838/2023

VIKAS REALITY SERVICES LLP Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.

Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

MUNCIPAL CORPORATION OF DELHI Respondent

Through: Ms. Sunieta Ojha, Standing
counsel for MCD with Ms.
Vasudha, Advs.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms.Preeti Chauhan,
Advs.for SHO

+ W.P.(C) 4161/2023, CM APPL. 16129/2023 - STAY

VIKAS PROMOTERS PVT LTD. Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh
Sawhney, Mr. Nishant Gupta,
Mr. Akash Tiwari, Mr.
Shivanshu Singh and Mr. Sahil
Gupta, Advs.

Versus

MUNCIPAL CORPORATION OF DELHI Respondent

Through: Ms. Sunieta Ojha, Standing
counsel for MCD with Ms.
Vasudha, Advs.
Ms. Rachita Garg, Mr. Agam
Rajput and Ms.Preeti Chauhan,
Advs.for SHO

+ W.P.(C) 4175/2023, CM APPL. 16185/2023

VIPUL GARG AND ANR. Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh Sawhney, Mr. Nishant Gupta, Mr. Akash Tiwari, Mr. Shivanshu Singh and Mr. Sahil Gupta, Advs.

Versus

MUNICIPAL CORPORATION OF DELHI Respondent

Through: Ms. Sunieta Ojha, Standing counsel for MCD with Ms. Vasudha, Advs. Ms. Rachita Garg, Mr. Agam Rajput and Ms. Preeti Chauhan, Advs. for SHO

+ W.P.(C) 14835/2023, CM APPL. 59015/2023

M/S BASANT PROJECTS LIMITED Petitioner

Through: Mr. Deepak Vohra, Mr. Divesh Sawhney, Mr. Nishant Gupta, Mr. Akash Tiwari, Mr. Shivanshu Singh and Mr. Sahil Gupta, Advs.

Versus

MUNICIPAL CORPORATION OF DELHI THROUGH COMMISSIONER MCD CIVIC CENTRE & ANR.

..... Respondents

Through: Mr. Tarun Johri, Mr. Ankur Gupta and Mr. Vishwajeet Tyagi, Advs. for DMRC Ms. Sunieta Ojha, Standing counsel for MCD with Ms. Vasudha, Advs. Ms. Rachita Garg, Mr. Agam Rajput and Ms. Preeti Chauhan, Advs. for SHO

%

Reserved on: 27.08.2024

Pronounced on: 11.11.2024

J U D G M E N T

The instant batch of writ petitions under Article 226 of the Constitution of India essentially challenges the recommendations made by the Municipal Valuation Committee-III (*hereinafter referred to as 'MVC-III'*) under Section 116 of the Delhi Municipal Corporation Act, 1957 (*hereinafter referred to as 'DMC Act'*) which are sought to be implemented to levy property tax by erstwhile East Delhi Municipal Corporation (*hereinafter referred to as 'EDMC'*). EDMC was reunified alongwith other Corporations and is now called the Municipal Corporation of Delhi (*hereinafter referred to as 'Corporation'*).

2. The majority of the writ petitions concern shops within a mall, while some petitions pertain to entities located in metro station complexes. Additionally, one of the writ petitions relate to a flatted factory and two other s involve multiplexes.

BRIEF BACKGROUND OF THE CONTROVERSY

3. In the year 2004, the Delhi Municipal Corporation (Amendment Act), 2003 (*hereinafter referred to as 'Amendment Act of 2003'*) came into force which, *inter alia*, brought about a change in the property tax regime to the extent of replacing the then existing 'Rateable Value (*RV*) system 'with 'Unit Area Method' (*UAM*). Prior to the introduction of amendment in the DMC Act, the properties were taxed based on the annual rate at which such lands or buildings were reasonably expected to be let out from year to year. However, post

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enforcement of UAM based system, the property tax for a particular property is calculated based on annual value of the property arrived at by multiplying the Unit Area Value (*hereinafter referred to as 'UAV'*) assigned to the colonies/localities with the covered area of the property and the multiple factors of occupancy, age, structure and use.

4. Under the provisions of DMC Act, Section 113 empowers the MCD to levy, *inter alia*, property taxes. Section 113(3) stipulates that, besides others, the property taxes are to be levied, assessed and collected in accordance with the provisions of the DMC Act and the bye-laws made, thereunder. The unamended Section 114 of the DMC Act envisaged the property taxes to be levied on the lands and buildings in Delhi and the same were calculated as a percentage of "*the Rateable Value*" of the lands and buildings. The determination of "*the Rateable Value*" of lands and buildings assessable to property taxes was provided in the erstwhile Section 116 of the DMC Act. It prescribed that "*the Rateable Value*" of any land or building assessable to property taxes shall be the annual rent at which such land or building might reasonably be expected to let out from year to year. However, the Amendment Act of 2003 introduced various alterations, consequent upon a change in the method of computing the property taxes to the unit area basis. By virtue of Section 2 of the Amendment Act of 2003, the word "annual value" was substituted for the word "*Rateable Value*". The newly introduced Section 2 (1A) defines "*Annual Value*" to mean the annual value of any vacant land or covered space of any building as determined under Section 116E of the DMC Act. Section 114A stipulates that for any building, the building tax shall be equal to the rate of building tax as may be prescribed by the MCD under Section 114D multiplied by the annual

value of the covered space of the building determined under Section 116A (1) or Section 116F.

5. By newly inserted Section 116E (1), the annual value of any covered space of a building in any ward is the amount arrived at, by multiplying the total area of such covered space of the building to the final base UAV of such covered space and the relevant factors as referred to in Section 116A (2) (b) of the DMC Act. Essentially, the annual value of a covered space in a building, under the new regime, is to be calculated by employing the following formula:-

$$\text{Annual Value (AV)} = \text{CA} \times \text{UAV} \times \text{AF} \times \text{OF} \times \text{UF} \times \text{SF}$$

wherein,

UAV = Unit Area Value

AF = Age factor

OF = Occupancy factor

UF = Use factor

SF = Structure factor

Thus, the valuation method has changed from being based on the annual rent on which the land or building was reasonably expected to be let out from year to year, to one based on UAV multiplied by the covered area and other multiplicative factors mentioned, therein.

6. The authoritative pronouncement of the Division Bench of this Court in the case of ***Vinod Krishna Kaul v. Lt. Governor NCT of Delhi***¹ upheld the constitutional validity of the Amendment Act of 2003, bylaws and the provisions introduced, thereunder.

7. As per amended Section 116 of the DMC Act, the Government shall, as soon as, may be after the commencement of the Amendment Act of 2003, and thereafter, at the expiration of every third year, constitute by way of a notification in the official Gazette, a Municipal

Valuation Committee (*hereinafter referred to as 'MVC'*). As per Section 116 (2) of the DMC Act, MVC shall consist of a Chairperson and such other Members being not less than two and not more than six as the Government may, from time to time determine. The functions of MVC, as prescribed under Section 116(5), are extracted as follows:-

- (a) To make recommendations to [the Corporation] on matters relating to classification of vacant lands and buildings in any ward of Delhi into colonies and groups of lands and buildings and fixation of base value per unit area of vacant land or per unit area of covered space of building and factors for increase or decrease, or for no increase or decrease, thereof;*
- (b) To consider objections under section 116C, and to make recommendation thereon; and*
- (c) To perform such other functions as the Government may require.*

8. Section 116A of the DMC Act provides for the classification of vacant lands and buildings into colonies and groups and specification of base unit area values, thereafter.

9. It is thus seen that post the Amendment Act of 2003, at the expiration of every third year, the Government needs to constitute by way of a notification an MVC to make recommendations as stipulated under Section 116 (5) of the DMC Act. In the wake of the Amendment Act of 2003, MVC-I was constituted on 28.10.2003, which submitted its final report on 28.02.2004 and classified the territory of Delhi into eight (8) categories i.e. Category 'A' to Category 'H'. On 03.03.2004, the Corporation accepted the report of MVC-I, and the unit area method was implemented w.e.f. 01.04.2004. From the year 2004-05, the entire Delhi has been subjected to the categorization of colonies situated in different parts of the city i.e. from categories 'A' to 'H' based on numerous factors. During the years 2004-05 to 2006-07, MVC-I recommendations remained in force. For the period between 2007-08 to 2009-10, MVC-II was constituted but no major changes

were implemented, and the position remained the same as it existed in MVC-I regime.

10. Thereafter, on 08.09.2009, MVC-III was constituted for the assessment of the property taxes for the years 2010-11, 2011-12 and 2012-13. On 25.06.2010, MVC-III submitted its interim report, whereas, the final report came to be submitted on 28.04.2011. No MVC was constituted for revision of base unit area value for the years 2013-14, 2014-15, and 2015-16. However, on 27.07.2015, the Corporation adopted MVC-III recommendations to be implemented w.e.f. 01.04.2016 and to be continued till the constitution of further MVC i.e., MVC-IV.

11. On 29.03.2016, respondent No.1 notified the implementation of MVC-III, whereas, on 27.07.2016, the Corporation notified grant of complete exemption from enhanced property tax to all the properties on account of implementation of MVC-III report as empowered by Section 117 of the DMC Act. The implementation of MVC-III is, therefore, sought to be made effective for the financial years 2017-18, 2018-19, and 2019-20 depending upon the facts of each case.

12. Consequent to the implementation of the recommendations of MVC-III, certain properties have been categorized as *Super Commercial Properties* and the assessment orders came to be passed. One of the assessment orders seeks to revise the property tax, allegedly with retrospective effect i.e., from the year 2008-09 onwards, whereas, other cases are distinctly placed on facts which shall be dealt with, accordingly. However, there is a sharp hike in the property tax on account of the implementation of modified factors as has been recommended in MVC-III. The alteration in the factors that

are accounted for levying the property tax can be understood from the following table:-

S.No.	Parameter	As per MVC I	As per MVC III
1.	Unit area Value	Rs.320/- sq. mt.	Rs.630/- sq. mt.
2.	Use Factor	4	6
3.	Occupancy factor	2	1
4.	Category	D	A

SUBMISSIONS

PETITIONERS' ARGUMENTS

Shops in mall as super commercial properties

CAUSE TITLE	ENTITY NAME
<i>Harsh Vardhan Bansal v. EDMC & Anr.</i> W.P.(C)13465/2021 (Lead matter)	Unit No. 27-28, GF Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>Savitri Mittal v. EDMC & Anr.</i> W.P.(C) 13463/2021 and W.P.(C) 13468/2021	Unit No. LG-2, GF Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>Rakesh Nanda & Anr. v. EDMC</i> W.P.(C) 2394/2021	Unit No. F-102, V3S mall, Plot No. 10, Lakshmi Nagar, District Centre, Delhi-92
<i>Gulshan Chawla & Anr. v. EDMC & Anr.</i> W.P.(C) 2864/2022	Unit No. S-201-202, Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>Renu Aggarwal v. EDMC & Anr.</i> W.P.(C) 13222/2021	Unit No. GF Shop No. 7-10, Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>Babita Mittal v. EDMC & Anr.</i> W.P.(C)13224/2021 and W.P.(C) 13225/2021	Unit No. GF-23, Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32

<i>Ram Swaroop Jaswal v. EDMC & Anr.</i> W.P.(C) 1430/2022	Unit No. G-46A,B,C,D, GF V3S Mall, Plot No.10
<i>Rajni Chawla v. EDMC & Anr.</i> W.P.(C) 2867/2022	Unit No. GF-12, Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>Shashi Kant Chawla & Ors. v. EDMC & Anr.</i> W.P.(C) 4374/2022	Unit No. S-203,204,204 A, SF, Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>Naresh Kumar Aggarwal v. EDMC & Anr.</i> W.P.(C) 13462/2021 W.P. (C) 13490/2021	Unit No.GF-25, Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>Naresh Malhotra & Ors. v. EDMC & Anr.</i> W.P.(C) 2790/2022	Unit No. GF- 30-32, Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>Neelam Jain v. EDMC & Anr.</i> W.P.(C) 2868/2022	Unit No. F-117, Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>Harish Chawla v. EDMC & Anr.</i> W.P.(C) 2869/2022	Unit No. GF-26, Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>MS Aggarwal Plaza Private Ltd. v. EDMC & Anr.</i> W.P.(C) 2875/2022	Unit No. GF-29, Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>Sh. Shubhash Jain & Anr. v. EDMC & Anr.</i> W.P.(C) 13912/2019	G-1-C, Cross River Mall, Plot No. 9B&9C, CBD, Shahadara, Delhi-32
<i>Ishwar Chand Mittal v. EDMC & Anr.</i> W.P. (C) 13219/2021	Unit No. GF-22, Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>Mukesh Mittal v. EDMC & Anr.</i> W.P.(C) 13464/2021 and W.P.(C) 13470/2021	Unit No. LG-1, Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
<i>Naresh Kumar Aggarwal EDMC &</i>	Unit No. LG-5, Unity one mall, Plot No. 29 & 31, CBD

Anr. W.P.(C) 13490/2021	Shahadara, Delhi-32
Nirmal Jain & Anr. v. EDMC & Anr. W.P.(C) 2865/2022	Unit No. 205, 205A & 205B Unity one mall, Plot No. 29 & 31, CBD Shahadara, Delhi-32
Shree Lakshmi Road Transport Corporation (Regd.) & Anr. v. EDMC & Anr. W.P.(C) 4169/2022	Unit No. F-103, FF, V35 Mall, Plot No.10 Lakshmi Nagar District Centre, Delhi-92
Vikas Reality Services LLP v. MCD W.P.(C) 4051/2023	F-108, 109, 110
Vikas Promoters Pvt. Ltd. v. MCD W.P.(C) 4161/2023	F-101 & 102 Area 1040 Mtr & Sq. G-14,15,21,22,29,32,34,35 & 40A Area 358.79 Sq. Mtr
Vipul Garg & Anr. v. MCD W.P.(C) 4175/2023	F-116, Vikas Cine Mall

13. Mr. Rajesh Yadav, learned senior counsel led the arguments on behalf of the petitioners and made the following broad submissions:-

- i. The categorization done by MVC-III is in violation of Section 116 A of the DMC Act, in as much as, no power was enumerated therein to create the category of *Super Commercial Properties* and the same is without jurisdiction as also impermissible in law.
- ii. The subject properties have been wrongfully classified from Category 'D' to Category 'A' for taxation purposes as the colonies where subject properties are situated are classified as Category 'D' as per Delhi Circle Rates notified by the Government of NCT of Delhi on 23.09.2014 (Circle Rates). Once the subject properties are

found to be situated in Category 'D' colonies, the rates applicable to Category 'A' cannot be made applicable. There have been no special facilities provided to the *Super Commercial Properties*. The classification is, thus, wholly illegal and improper.

- iii. The categorization of the petitioners' properties into *Super Commercial Property* is a result of self-imagination of MVC-III without any cogent basis as there does not exist any such concept of *Super Commercial Properties* in law. The petitioners cannot be discriminated against and placed in a higher category merely based on the location of their shops in malls. Most importantly, the respondents have failed to consider that many shops in the city are situated at prime locations and those shops are still subjected to tax at a lower rate. Therefore, such superficial classification without any sanction of law is in violation of Article 14 of the Constitution of India and does not meet the essentials of the principle of reasonable classification based on an intelligible differentia.
- iv. In addition, there does not seem to be any reasonably sound basis for creating two distinct categories of shops situated in the same mall, one covering less than 1500 square meters of area and the other covering an area more than 1500 square meters. Additionally, no other Corporation, except the erstwhile EDMC, has adopted the recommendations of MVC-III, and even the EDMC itself, retracted the implementation for one year to all the

properties subjected to higher taxation and, later on, the exemptions were granted on a selective basis.

- v. Reliance is also placed upon the decision in the case of ***Vinod Krishna Kaul***² to substantiate the arguments.
- vi. The assessment order *w.e.f.* 2008-09 is wholly without jurisdiction and *void ab initio* as no assessment order can be passed three years prior to the assessment notice given the decision rendered by this Court in ***Ved Marwaha v. NDMC***³.
- vii. In the subsequent recommendations of MVC-V, the concept of *Super Commercial Properties* has been done away with, and the taxation regime has been reverted to the scheme outlined in MVC-I.
- viii. Besides the aforesaid, learned Senior Counsel criticized the improper action of the respondents as being impermissible on account of the same being barred by limitation.

Multiplexes as super commercial properties

CAUSE TITLE	ENTITY NAME
<i>Rita Chhawchharia & Ors. v. EDMC</i> W.P.(C)9658/2019	Plot No. 9-B & 9-C, CBD, Karkardooma, Cross River Mall, Shahdara, Delhi, 110032.
<i>Bajaj Jewels India (P) ltd. v. EDMC</i> W.P.(C) 9659/2019	Plot No.10, V3S Mall, Laxmi Nagar, District Centre, Delhi, 110092.

²2012 SCC OnLine Del 4355

³2013 SCC OnLine Del 8096

14. Ms. Sonali Malhotra, learned counsel appearing on behalf of the petitioners in W.P.(C) 9658/2019 and W.P.(C) 9659/2019 submitted that the petitioners in these writ petitions are the first agitators of the cause. She submitted that the petitioners are the multiplexes which are different from the shops located in a mall. In addition, they are placed at starkly different positions from the multiplexes located in the Category 'A' areas. She, therefore, contended that the petitioners cannot be placed similarly with Category 'A' colony facilities. She further submitted that merely because the petitioners in these writ petitions are operating as multiplexes, they cannot be categorized as *Super Commercial Properties*.

Flattened factory as Super Commercial Properties – NDMC

CAUSE TITLE	ENTITY NAME
<i>DCM Ltd. v. North DMC</i> W.P.(C)- 6656/2021	Property No.7303-7661, Bara Hindu Rao, Delhi, 110006. Area- 99350 sq. metre

15. There is only one writ petition, where the erstwhile NDMC is arraigned as a respondent i.e., W.P.(C) 6656/2021, which relates to a flattened factory i.e., an industrial building of more than one storey which is sub-divided into small separated occupied units being used for manufacturing, assembly and associated storage. The same has also been categorized as a *Super Commercial Property*.

Entities at metro stations - concessionaire agreement with DMRC

CAUSE TITLE	ENTITY NAME
<i>AVG Logistics v. East DMC</i> W.P.(C) 6151/2020 W.P.(C) 6212/2020	1. Mansarovar Park Metro Station PKG-1

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W.P.(C) 7867/2020 W.P.(C) 7868/2020 W.P.(C)7869/2020 W.P.(C) 7884/2020	2. Jhilmil PKG-1 3. Mansarovar Park Metro Station PKG-3 4. Jhilmil PKG-2 5. Mansarovar Park Metro Station PKG-2 6. Mansarovar Park Metro Station PKG-4
<i>Basant Projects Private Ltd. v. MCD & Anr.</i> W.P.(C) 14835/2023 W.P.(C) 624/2020	1. Karkardooma Metro Station 2. Dilshad Garden Metro Station

16. The writ petitions related to the entities situated at the metro station complexes fall under the aegis of Delhi Metro Rail Corporation (*hereinafter referred to as 'DMRC'*). The petitioners had a concessionaire agreement with DMRC where land/shops at metro stations were given to them for managing and marketing purposes. While the agreement was in force, it appears that DMRC has made certain payments of property taxes to the Corporation on behalf of the petitioners. Later on, EDMC started raising demands directly from the petitioners. The grievance in these writ petitions is also against the categorization of those properties as *Super Commercial Properties* as well as against the recovery effected by the DMRC for the payments that it had made on their behalf to the EDMC. However, the DMRC has justified the recovery based on the fact that the petitioners are licensee(s) of the DMRC.

17. Mr. Deepak Vohra, learned counsel appearing on behalf of the petitioner in W.P. (C) 14835/2023 made an additional submission that

initially there has been a payment of service charge which was the

subject of contention but eventually, it has been converted into a demand of the property tax.

18. Mr. Arjun Nanda, learned counsel appearing on behalf of the petitioner in W.P.(C) 2394/2021 submitted that the petitioner shop/unit covers an area of 132 square meters, whereas, the properties which cover an area of more than 139.2 square meters are only placed in the '*Super Commercial Properties*' categories.

RESPONDENTS' SUBMISSIONS

19. The aforesaid submissions have been strongly opposed by Ms. Sunieita Ojha, learned counsel, who appeared on behalf of the Corporation and submitted as under:-

- i. While explaining the scheme of Chapter VIII of the DMC Act, which relates to the levy of taxes, she submitted that the writ petitions are not maintainable at the instance of the present petitioners as the recommendations were made after following the due procedure of law laid down in the DMC Act, wherein, publication of an interim report was followed by invitation of objections in terms of Section 116 C of the DMC Act. There were 131 objections received by the respondents which were discussed and additions and omissions were carried out therein, by a Screening Committee comprising of competent and experienced officials before publishing the final MVC-III report. However, it is pertinent to note that none of the petitioners ever raised any objections when the due opportunity was provided to them.
- ii. The implementation of the recommendations of MVC-III by the erstwhile EDMC cannot be the sole ground to

attribute any illegality to the recommendations made by MVC-III after carrying out the statutorily required procedure. Section 116 B (2) of the DMC Act makes it binding upon the MCD to follow the recommendations made by MVCs constituted under the DMC Act.

- iii. The constitution of MVC and the provisions introduced by the Amendment Act of 2003 and the bylaws therein, have already been upheld in the case of ***Vinod Krishna Kaul⁴*** and unless the petitioners prove any fundamental jurisdictional error, no interference is called for.
- iv. The exemption granted by the erstwhile EDMC for any particular year to the specific category of cases cannot *ipso facto* be a reason to prevent the petitioners from the payment of their respective property taxes. The provisions of Section 116 A of the DMC Act have been strictly adhered to, which includes the power lying with MVC to consider any such parameters as may be relevant. The categorization of vacant lands and buildings in any ward of Delhi into groups of lands and buildings is permissible and if the MVC has considered the properties situated distinctly, which form a separate class in itself, no fault can be found in such classification.
- v. The decision relied upon by the petitioners in the case of ***Ved Marwaha*** is distinguishable as the said case does not deal with the taxation imposed on self-assessment basis. While drawing the attention of this Court to the provisions of Section 123D of the DMC Act, she emphasised that it

was the petitioners' bounden duty to pay the property tax on self-assessment basis which they failed to perform and therefore, on account of their wilful suppression of information, the Corporation is empowered to reopen the assessment.

- vi. She has placed reliance on a decision of this Court in the case of *Vinod Krishna Kaul* and the decisions of the Supreme Court in the cases of *Municipal Corporation of Delhi v. Aurobindo Education Society*⁵, *Union of India (UOI) and Ors. v. Cosmo Films Limited*⁶, *Union of India and Ors. v. Exide Industries Ltd. and Ors.*⁷, *Spencer's Hotels Pvt. Ltd. and Ors v. State of West Bengal*⁸ and *Ganga Sagar Corporation v State of Uttar Pradesh and Ors.*⁹
- vii. With respect to the properties on lease under DMRC, she submitted that the DMRC is a company incorporated under the Companies Act, 1956 and therefore, it is liable to pay the property tax on its properties being in jurisdiction of the Corporation. According to her, under Section 119 of the DMC Act, the properties of Union are exempted from payment of property tax specified in Section 114. The explanation to the said Section clarifies that the property owned by the Government or a Statutory Corporation which has a Corporate Personality of its own shall not be deemed to be a property of the Union. DMRC

⁵CA No. 149/2013

⁶(2023) 9 SCC 244

⁷(2020) 5 SCC 274

⁸1991 (2) SCC 154

⁹(1980) (1) SCC 223

operates independently from Indian Railways and is primarily governed by the provisions of the Delhi Metro Railway (Operation and Maintenance) Act, 2002 and the Metro Railways (Construction of Works) Act, 1978, rather than the Railways Act, 1989. She, therefore, submitted that DMRC does not fall under the definition of 'railway administration' as per the Railways Act, 1989.

20. Mr. Manu Chaturvedi, learned Standing Counsel who appeared for the Corporation in some of the writ petitions, in addition to the aforesaid submissions, has highlighted the following aspects:-

- i. Under Section 116A of the DMC Act, the words used are 'colonies' and 'groups of land and buildings'. The conjunction word 'and' between them is to be read disjunctively which would permit different classification of the group of buildings or colonies situated in a particular category. If the malls of the entire Delhi are taken as a group, then the umbrella clause i.e., Section 116 A of the Act would empower MVC to classify them all into groups of buildings irrespective of their location in Delhi.
- ii. If a particular colony is categorised as 'A', it does not mean that all buildings/entities situated in that particular colony necessarily be categorised as 'A'. If a nature of building falling within a particular colony corresponding to a particular category forms a different ground altogether, they can be categorised separately and all similarly situated buildings can be placed in one group irrespective of them being spread over in multiple

categorised colonies. Section 116(1) of the DMC Act empowers MVC to create an alternate mode of classification which can altogether be a separate class. As long as the classification is conforming to the provisions of DMC Act, it cannot be called in question that it is a sub-classification and violates the essential principle of reasonable classification.

- iii. A reading of the recommendations of MVC-III would show that one of the factors based on which a separate class of *Super Commercial Properties* has been created is 'proximity to commercial centres' and no other entity can be as proximate as the entities situated inside a commercial centre are.
- iv. A separate class of *Super Commercial Properties* is reasonable and is based on sound appreciation of ground realities.
- v. The jurisprudence of tax laws supports the findings of MVC-III as the same is based on economic wisdom of the Corporation in order to promote social justice. So long as the power exercised by MVC-III is shown to be without jurisdiction or apparently illegal and improper, the same should ideally be free from the domain of judicial review.
- vi. He has placed reliance on the decisions in the cases of *S Kodar v. State of Kerela*¹⁰, *Sadiq Bakery v. State of Andhra Pradesh*¹¹, *Hoechst Pharmaceuticals Ltd. v.*

¹⁰(1974) 4 SCC 422

¹¹1988 SC 322

***State of Bihar and Ors¹² and Union of India v. Nitdip
Textile Processors Pvt. Ltd. And Ors.¹³***

21. Mr. Tarun Johri, learned counsel who appears for DMRC has placed on record written submissions and according to him, demand of payment of property tax on DMRC's property is in violation of Section 184 of the Railways Act, 1989. In any case, he submitted that as to whether the DMRC is liable to pay the property tax is the issue which is already *sub judice* in a separate writ petition. He, therefore, contended that in the present set of cases, if at all, the property tax is liable to be paid, the same will have to be paid by the lessee i.e., the petitioners in the instant cases.

22. In rejoinder submissions, Mr. Rajesh Yadav, learned Senior counsel appearing on behalf of the petitioners submitted that though the petitioners did not raise any objection in terms of Section 116C of the DMC Act, yet the petitioners are entitled to challenge the recommendations of MVC-III as the same *dehors* the legal provisions. According to him, the respondents are unable to show as to how the criteria laid down under Section 116 A of the DMC Act had been adhered to which includes various factors such as settlement pattern, plotted housing, group housing, colony, availability of civic and social infrastructure, access to roads etc.

23. It was his contention that MVCs are to be constituted every three years; however, MVC-III being constituted in the year 2010, submitted its interim report on 25.06.2010 and ultimately, the final report was submitted on 29.03.2016. According to him, the interim report and the final report have no co-relation with the economic conditions and developments prevailing at the relevant point of time.

¹²(1983) 4 SCC 45
¹³(2001) 1 SCC 226

He, therefore, submitted that the recommendations made in the year 2016 cannot be made applicable in the contemporary times. He criticized the reasoning behind categorisation of *Super Commercial Properties* on the ground that if the petitioners have higher capacity to pay, the same does not imply that as a sequitur, they shall be subjected to payment of higher taxes. Such a presumption, according to him, is based on untenable figures.

24. Ms.Sonali Malhotra, learned counsel, in her rejoinder submissions, contradicted the submissions made by the respondents. She drew strength from the decision of this Court in the case of ***Vinod Krishna Kaul*** to assert that the same would support the petitioners' case. She also submitted that there are no special amenities provided by the respondents with respect to the properties which are categorised as *Super Commercial Properties* and therefore, the writ petitions deserve to be allowed.

25. I have considered the submissions made by learned counsels for the parties and perused the record.

ISSUES

26. On the basis of the submissions made by learned counsel appearing for the parties, the following issues emerge for consideration:-

- I. Whether the categorization of the properties of the petitioners as *Super Commercial Properties* by the MVC-III constitutes reasonable classification under Article 14 of the Constitution of India?
- II. Whether the Corporation is justified in re-opening the property tax assessment for the previous years?

ANALYSIS

27. Before adjudicating the aforesaid issues, it is expedient to examine the brief background of the municipal functions envisaged to be performed in the NCT of Delhi. Initially, the Municipal Government of Delhi was being administered as per the provisions of the Punjab District Boards Act, 1883 and the Punjab Municipal Act, 1911 through various bodies and local authorities, wherein, the territory of Delhi was allocated under different organs, such as, Municipal Committee, Delhi; the notified area Committee, Civil Stations; the notified area committee, Red Fort; the Municipal Committee, Delhi, Shahdara; the Municipal Committee, West Delhi; the municipal committee, South Delhi etc. The multiplicity of local authorities overlooking the municipal affairs gave rise to various complications and created difficulties for the authorities as well as for the public at large and hence, it was necessitated to have an uniform administration of such municipal functions. Accordingly, in order to consolidate and amend the laws relating to Municipal Government of Delhi, the DMC Act was enacted by the Parliament, wherein, Section 3 provides that the Government [Government of National Capital Territory of Delhi], is empowered, by notification in the official Gazette, to establish for the purposes of the DMC Act, Corporation or Corporations charged with the Municipal Government of Delhi. Every Corporation so established, shall be a body corporate with the name duly notified by the Government having perpetual succession and a common seal with power, subject to the provisions of the Act, to

acquire, hold and dispose of property and may by the said name sue and be sued.

28. The DMC Act encapsulates various provisions which are classified under different chapters, such as establishment of Corporation, functions of the Corporation, municipal authorities under the Corporation, municipal officers and other municipal employees, revenue and expenditure, property and contract, and accounts and audit etc., whereas, Chapter VIII specifically deals with the taxation regime. As has been noted hereinabove, the Corporation is empowered to impose various taxes under Section 113 of the DMC Act, including the property tax. The components of property tax as per Section 114 of the DMC Act include building tax and vacant land tax. Section 114A deals with the building tax which provides that for any building, the building tax shall be equal to the rate of building tax as may be prescribed by a Corporation under Section 114D multiplied by the annual value of covered space of the building determined under Section 116E (1) of the DMC Act. However, the vacant land tax shall be leviable as per Section 114C in respect of any premises which shall be equal to the rate of vacant land tax as may be specified by the Corporation under Section 114E multiplied by the annual value of the vacant land determined under of Section 116E (3). Section 114D of the Act prescribes the base rate of property tax on building in Delhi to be between a minimum of 6% and maximum of 20% of the annual value of such buildings as may be specified by the Corporation from time to time. It further provides that the Corporation may, at any time, prescribe fixed rates between the minimum and maximum rates of tax for different colonies or for different groups of buildings in such colonies.

29. Section 115A, *inter alia*, stipulates that every building and every vacant land shall be assessed as a single unit. Section 116 empowers the Government to constitute by notification, in the official Gazette, an MVC, consisting of a Chairperson and such other members, being not less than two and not more than six as the Government may determine. The functions of MVC have already been discussed in preceding paragraphs which essentially relate to making recommendations to the Corporation on matters relating to classification of vacant lands and buildings in any ward of Delhi into colonies and groups of lands and buildings and fixation of base value per unit area of vacant land or per unit area of covered space of building and factors for increase and decrease or for no increase and decrease, thereof.

Issue (i)

30. The MVC, before recommending the classification of the vacant land and buildings in any ward of Delhi referred to in Section 116(5) (a) of the DMC Act, into colonies and groups of lands and buildings, takes into consideration various parameters. Section 116A thus becomes imperative to be considered, which is reproduced hereunder for the sake of clarity as:-

“[116A. Classification of vacant lands and buildings into colonies and groups and specification of base unit area values therefore.—

(1) The Municipal Valuation Committee shall recommend the classification of the vacant lands and buildings in any ward of Delhi, referred to in section 5, into colonies and groups of lands and buildings after taking into account the following parameters:--

(a) settlement pattern such as plotted housing, group housing, colony with flats only, urban village, unauthorized colony, resettlement colony, rural village and non-residential areas;

(b) availability of civic and social infrastructure;

(c) access to roads;

(d) access to district centres, local shopping centres, convenience shopping centres, and other markets;

- (e) land prices as may, from time to time, be notified by 5 [the 6 [Government]] or the Delhi Development Authority;*
- (f) use-wise category of any building including residential building, business building, mercantile building, building for recreation and sports purposes, industrial building, hazardous building and public purpose building including educational, medical and such other institutional building and farmhouse, as may be specified by 2 [3 [the Corporation]];*
- (g) in the case of buildings used for business, mercantile, recreation and sports, industrial, hazardous, storage or farmhouse purposes, the location of such buildings adjacent to such categories of streets, as may, subject to the provisions of sub-section (2), be specified by 2 [3 [the Corporation]];*
- (h) the types of buildings which may be classified as pucca, semi-pucca or katcha, as may be specified by 1 [2 [the Corporation]];*
- (i) the age-wise grouping of buildings as may be specified by 1 [2 [the Corporation]];* and
- (j) such other parameters as may be considered relevant by the Municipal Valuation Committee.*

(2) The Municipal Valuation Committee shall recommend, group wise,--

- (a) the base unit area value of any owner-occupied vacant land, or any wholly owner-occupied building of pucca structure, constructed in the year 2000 or thereafter, and put to exclusive residential use, and*
- (b) the factor for increasing or decreasing, or for not increasing or decreasing, the base unit area values specified in clause (a), separately in respect of each of the parameters of type of colony, use, age, type of structure and occupancy status of the vacant land or building, as the case may be, subject to a lower limit of zero point five and upper limit of ten point zero.”*

31. Section 116B requires the classification of vacant lands and buildings into colonies and groups, specifications of base unit area value thereof, and factors for increase or decrease to be notified by the Corporation. Section 116C requires MVC to consider any objections in respect of public notice issued under Section 116B of the DMC Act. Section 116D envisages that subject to the provisions of Section 169, the base unit area value of vacant land and base unit area value of covered space of building in any group, as may be specified under Section 116C (3), shall be final. The same is to be published and copies, thereof, shall also be made available to any person on cost etc.

Section 116E prescribes determination of annual value of covered space of building and of vacant land which essentially is based on base unit area value. Section 116 E reads as under:-

“116E. determination of annual value of covered space of building and of vacant land.—(1) the annual value of any covered space of building in any ward shall be the amount arrived at by multiplying the total area of such covered space of building by the final base unit area value of such covered space and the relevant factors as referred to in clause (b) of sub-section (2) of section 116 a. explanation.— "covered space", in relation to a building, shall mean the total floor area in all the floor thereof, including the thickness of walls, and shall include the spaces of covered verandah and courtyard, gangway, garage, common service area, staircase, and balcony including any area projected beyond the plot boundary and such other space as may be prescribed.

(2) 1 [2 [the corporation]] may require the total area of the covered space of building as aforesaid to be certified by an architect registered under the architects act, 1972 (20 of 1972), or any licensed architect, 116a. classification of vacant lands and buildings into colonies and groups and specification of base unit area values therefor subject to such conditions as may be prescribed.

(3) the annual value of any vacant land in any ward shall be the amount arrived at by multiplying the total area of such vacant land by the final base unit area value of such land and the relevant factors as referred to in clause (b) of subsection (2) of section 116a.

(4) if, in the case of any vacant land or covered space of building, any portion thereof is subject to different final base unit area values or is not self-occupied, the annual value of each such portion shall be computed separately, and the sum of such annual values shall be the annual value for such vacant land or covered space of building, as the case may be.”

32. Section 120 elucidates that the incidence of property tax and the liability of property tax on any land or building shall primarily be upon the owner, thereof. Section 122 prescribes recovery of property tax from occupiers, whereas, Section 123 prescribes a first charge of property tax on premises on which they are assessed. Section 123A further prescribes for the submission of returns. Section 123B

prescribes for self-assessments and submission of return and Section 123C thereby, provides for the revision of assessment.

33. Section 123D envisages the powers of Commissioner regarding assessment which provides that the Commissioner may, at any time, (i) make *suo moto* assessment in any case where a return on the basis of self-assessment has not been filed, (ii) revise any assessment where the information furnished in the return of self-assessment is found to be incorrect (iii) reopen any assessment even after the period of one year in any case where it has been detected that there is wilful suppression of information and (iv) to impose a penalty not exceeding 30% of the difference in tax arising from wrong filing of a return in time giving wrong information or wilful suppression of facts.

34. The final report of MVC consists of various factors, however, in the instant cases, the Court is concerned about the categorisation of the petitioners' entities as *Super Commercial Properties*. Clause 4.4 of the final report furnished by MVC-III notes that the big commercial properties like starred hotels, malls, multiplexes, guest houses, petrol pumps, CNG Stations, farmhouses in non-residential use and big show rooms in well-established notified commercial markets are a class by themselves and have no similarity with small commercial properties like small shops. Such big commercial properties, according to MVC-III, have received huge reduction in property tax payable on switchover to UAM and deserve to contribute more to the property tax revenue on account of higher burden on municipal services as well as on account of much higher capacity to pay. The MVC-III, therefore, recommended that big commercial properties like starred hotels, malls, guest house, petrol pumps, farm houses, used for non-residential purposes and big show rooms above 1500 square feet

covered area which are mostly in recognised/DDA approved markets should be treated as a separate class by themselves and be classified as Category 'A' properties. Paragraph no.4.4 of the final recommendations is reproduced as under:-

"4.4 SUPER COMMERCIAL PROPERTIES

It has been noted by the Committee that big commercial properties like Starred hotels, Malls; Multiplexes, Guest Houses, Petrol Pumps, CNG Stations, Farm Houses in non-residential use and big show rooms in well established notified commercial market are a class by themselves and have no similarity with other small commercial properties like small shops. Such big commercial properties have received too much reduction in Property Tax payable on switch over to U.A.M. and deserve to contribute more to the Property Tax revenues on account of higher burden on Municipal Services as well as on account of much higher capacity to pay. However, public utility commercial properties like Banks and Post-offices are not similar to those big commercial properties and can reasonably be equated with the normal commercial properties in a particular locality so as to attract the same unit area values or factor values. The Committee, therefore, agrees with the presentation made on behalf of the Commissioner, M.C.D. that the big commercial properties like Starred hotels, Malls, Multiplexes, Guest Houses, Petrol Pumps, Farm Houses used for no ideal purposes and big show rooms above 1500 sq. ft. covered area which are mostly in recognized/DDA approved markets should be treated as a separate class by themselves. It is agreed that all Hotels-five star and above, Multiplexes, Petrol Pumps, Farm Houses in non-residential use, Guest Houses, Malls and all commercial properties measuring 1500 sq. ft. or more be treated as category 'A' properties and 3 & 4 Star Hotels treated as category 'B' if the colony is categorized below 'B', regardless of the category of the colonies in which they incidentally fall.

Also the Super Commercial Properties, except Hotels – 5 star & above (which would continue to attract a factor of 10), should attract factor of 6 instead of 4. This criterion of 1500 Sq. ft. and above will cover all big commercial properties which will be mostly in established DDA approved markets.

Moreover, these big special commercial properties are different from small shops, etc. and have got too steep a reduction in taxes at the time of switchover to UAM. These should be taxed by applying a factor of 6 - against 4 at present."

35. It is thus seen that on account of classifying the petitioners in Category 'A', various parameters were altered from MVC-I to MVC-

III. This categorisation, essentially from category 'D' to category 'A', resulted in automatic hike in the payment of property taxes on the part of the petitioners. However, further scrutiny of the recommendations of MVC-III in paragraph no.3.22 of its final report would exhibit that it has taken into consideration various aspects such as: (i) capital value of land, (ii) prevalent rental value, (iii) age of colony, (iv) road on which the colony is located, (v) infrastructure (physical), (vi) social infrastructure, (vii) levy of services, (viii) type of colony (ix) proximity to commercial centres, (x) location of colony, (xi) metro lines and stations etc. for the purpose of categorisation.

36. While categorising the shops situated in a mall as *Super Commercial Properties*, MVC-II was conscious of the aforementioned parameters. In Paragraph no.3.22 (viii & ix), following pertinent observations have been made by MVC-III:-

viii) Proximity to Commercial Centers:

Committee while maintaining the existing system of categorization of colonies on the basis of proximity to commercial centres, the committee came to them conclusion that all big commercial properties like malls/multiplexes, five star and above Hotels, Guest Houses, Farm Houses in non-residential use and commercial show rooms with covered area of 1500 Sq. ft. and above be categorized as 'A', while all 3 & 4 Star Hotels be categorized as 'B', if otherwise categorized below that.

ix) Location of colonies:

The Committee found no need for any change in the existing grading done by MVC-I under this parameter except that all colonies developed by DDA in East Delhi which have a distinct and separate character as compared to other colonies in East Delhi need to be categorized one above their present categorization. Therefore, the committee agrees with the proposal made in the presentation of the MCD that all DDA developed colonies in East Delhi be categorized on par with other DDA developed colonies in East/North Delhi and categorization thereof shall one category above from the existing categorization. Their list alongwith old and

new categorisation. Their list alongwith old and new categorization is given in Annexure X.

37. The aforesaid recommendations came to be implemented under Section 116 of the DMC Act *vide* notification dated 29.03.2016 which, *inter alia*, states that in view of the resolution dated 27.07.2015, MVC-III report has been adopted which would be implemented *w.e.f.* 01.04.2016. The notification dated 29.03.2016 reads as under:-

“Sub: Implementation of MVC-III Report U /S 116 of Delhi Municipal Corporation Act, 1957.

Under the provisions of the Delhi Municipal Corporation Act, 1957 amended from time to time and under the power vested with Municipal Valuation Committee U/S 116 of the Delhi Municipal Corporation Act, 1957, reported to erstwhile Delhi Municipal Corporation the IIIrd MVC Report has been adopted by East Delhi Municipal Corporation vide Resolution No. 76 dated 27.07.2015, which will be implemented w.e.f 01.04.2016 onwards till further constitution MVC. The comprehensive details of adoption of MVC-III report is available at website www.mcdonline.gov.in and the office of Assessment & Collection Department of East Delhi municipal Corporation.”

38. As has been noted in the preceding paragraphs, a complete exemption from imposition of higher taxes under MVC-III recommendations was granted for the year 2016-17 and therefore, while extending the exemption to ascertain set of properties, the recommendations have been fully made applicable *w.e.f.* 01.04.2017.

39. In the case of **Vinod Krishan Kaul¹⁴**, one of the arguments advanced by the petitioners was that by virtue of Section 116A of the DMC Act, MVC has been given unanalysed and arbitrary power in recommending the classification of vacant lands and buildings in any ward of Delhi into colonies and groups of lands and buildings. It was argued therein that certain provisions, particularly Section 116A(1)(j)

empowered MVC to take into account ominous parameters which were not even spelled out in the DMC Act or were not even in the contemplation of the legislature, while making its recommendations regarding classification of vacant lands and buildings into colonies and groups of land and buildings. While dealing with the aforesaid argument, the Court placed reliance on a decision of the Supreme Court in the case of **Anant Mill Company Ltd. v. State of Gujarat**¹⁵ and in paragraph no.49 of the said decision held that *firstly*, categorisation of colonies/area/localities in Delhi into different categories is to be carried out keeping in mind firstly, the parameters as specified in Clauses (a) to (j) of Section 116A(1) and *secondly*, for arriving at the base unit area values and the multiplicative factor, clear guidelines have been prescribed and therefore, the provisions of Section 116A and other related provisions cannot be regarded as arbitrary or contrary to Article 14 of the Constitution of India. In paragraph No.41 to 49 of the decision in **Vinod Krishna Kaul**, the following pertinent observations have been made:-

"41. These parameters fall within the scope of permissible classification. In taxation matters, a narrow approach to classification should not be adopted as in the words of the Supreme Court 'the power of the legislature to classify is of wide range and flexibility so that it can adjust its system of taxation in all proper and reasonable ways'.

42. A point had been raised that clause (j) of section 116A(1) ["such other parameters as may be considered relevant by the Municipal Valuation Committee"] is open-ended and leaves unguided and uncanalised discretion with the MVC. We do not agree with this submission for the simple reason that the said clause (j) is not to be read in isolation but in conjunction with the other clauses from which it will take colour.

43. Sub-section (2) of section 116A requires the MVC to recommend, groupwise, (a) the base unit area value of any owner occupied vacant land, or any wholly owner-occupied building of

pucca structure, constructed in the year 2000 or thereafter, and put to exclusive residential use, and (b) the factor for increasing or decreasing or for not increasing or decreasing, the base unit area values in respect of each of the parameters of type of colony, use, age, type of structure and occupancy status of the vacant land or building as the case may be, subject to a lower limit of zero point five and upper limit of ten point zero.

44. Once the MVC makes its recommendations, the MCD, by virtue of section 116B, is required to declare its intention to classify vacant lands and buildings in each ward into such colonies and groups of lands and buildings as the MCD may, by public notice, specify. The MCD is also required to specify, in such public notice, the base value it proposes to specify per unit area of vacant land and per unit area of covered space of buildings within each such group and also the factors for increasing or decreasing, or for not increasing or decreasing, the base unit area values of vacant lands and buildings. In terms of section 116B(2), if any representation is received by MCD, pursuant to the public notice, from any group in any colony, the MCD is required to refer the representation to the MVC for reconsideration. The decision of the MVC thereon, subject to the provisions of section 116K, is binding on the MCD.

45. Section 116C also enables any owner or occupier of any vacant land or building to submit his objection regarding -- the manner of classification of any group or groups, the base value per unit area of vacant land or the base value per unit area of covered space of buildings in any group and/or the multiplicative factors specified in Section 116A(2)(b) - to the MCD within 30 days from the publication of the public notice. Any such objection has to be considered by the MVC and that, too, after giving the objector an opportunity of being heard as per the prescribed procedure. Once all this is done and 30 days have expired from the date of publication of the public notice under section 116B and the recommendations of the MVC on the objections are considered, the MCD is required by section 116C(3) to issue a public notice specifying, groupwise, the base unit area value of vacant land and the base unit area value of covered space of buildings and the factors referred to in section 116A(2)(b). The proviso to section 116C(3) stipulates that the MCD shall not alter the unit area values recommended by the MVC without approval of the Government. 46. Ultimately, section 116D(1) stipulates that, subject to the provisions of section 169, the base unit area value of vacant land and base unit area of covered space of buildings in any group, as specified under section 116C(3), shall be final. And, section 116D(2) requires that the MCD shall publish the final base unit area values and the multiplicative factors. 47. It is in this manner that the UAV (unit area value) and the multiplicative factors -- AF (Age Factor), OF (Occupancy Factor), UF (Use Factor) and SF (Structure Factor) - are determined and notified to the public at large. As indicated in

the counter affidavit filed on behalf of the MCD in WP(C) No. 8030 of 2003, all these steps were followed. It is also stated therein that the MVC constituted under section 116 had considered the objections received pursuant to the public notice dated 03.01.2004 issued by the MCD and had even recommended changes after giving the objectors opportunity of hearing. It is also stated that the classification of colonies/areas/localities is based on the parameters prescribed under the Act. 48. It is pertinent to note that the classification exercise conducted by the MVC has resulted in eight (8) categories (A to H) in which colonies/ areas/ localities in Delhi have been placed. Each of these categories has been prescribed a UAV, ranging from 630 per sq.m for Category A to 100 per sq.m. for Category H. The Age Factor (AF) ranges from 0.5, for covered spaces constructed prior to 1960, to 1, for covered spaces constructed in 2000 and thereafter. As regards the Occupancy Factor (OF), it is 1 if self-occupied and 2 if tenanted. The Use Factor (UF) varies from 1 for Residential and Public Purpose to 10 for Star Hotels (3 star & above), Hoardings and Towers. The Use Factor for Industry, Entertainment, Recreation & Clubs has been specified as 3 and that of Utilities and Business as 2 and 4, respectively. Finally, the Structure Factor (SF) for pucca and semi-pucca buildings is 1, while it is 0.5 for kutcha buildings.

49. From the above discussion, it is apparent that clear guidelines have been prescribed under the new regime for, first of all, classifying colonies/ areas/ localities in Delhi into different categories depending upon the parameters as specified in clauses (a) to (j) of section 116A(1) and, secondly, for arriving at the base unit area values and the multiplicative factors. Thus, the provisions of section 116A and other related provisions cannot be regarded as being arbitrary or contrary to article 14 of the Constitution.”

40. It could very well be seen that the Court has placed reliance on the decision of the Supreme Court in the case of **Budhan Choudhry v. The State of Bihar**¹⁶, wherein, it was held that Article 14 of the constitution prohibits class legislation but does not proscribe reasonable classification and this proposition of law has stood the test of time.

41. A glance over the well settled jurisprudence on Article 14 would evince that the thrust of permissible classification rests on an intelligible differentia which distinguishes persons or things that are

grouped together from others, left out of the groups, and the differentia therein, must have a rationale nexus to the object sought to be achieved by the Statute in question. In case of permissible classification, mathematical nicety and perfect equality may not be desirable to be reckoned. One of the earliest authoritative references with respect to the extent and scope of Article 14 of the Constitution of India can be gainfully found in the case of **D.S. Nakara & Ors. v. Union of India**¹⁷, wherein, the Supreme Court has emphatically noted as under:-

“11. The decisions clearly lay down that though Article 14 forbids class legislation, it does not forbid reasonable classification for the purpose of legislation. In order, however, to pass the test of permissible classification, two conditions must be fulfilled, viz. (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group; and (ii) that that differentia must have a rational relation to the objects sought to be achieved by the statute in question [See Shri Ram Krishna Dalmia v. Shri Justice S.R. Tendolkar & Ors. 5]. The classification may be founded on differential basis according to objects sought to be achieved but what is implicit in it is that there ought to be a nexus, i.e. casual connection between the basis of classification and object of the statute under consideration. It is equally well settled by the decisions of this Court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure.”

42. The rigor of law with respect to the aforesaid facet of equality ripened with the passage of time through a catena of judicial pronouncements and the Supreme Court, in the case of **KR Lakshman v. Karnataka Electricity Board**¹⁸, has eloquently held that the Court has to apply dual test i.e., whether the classification is rational and based upon an intelligible differentia, which distinguished persons or things that are grouped together from others and whether the basis of

¹⁷(1983) 1 SCC 305

¹⁸Air 2001 SC 595

differentiation has any rational nexus or relation with its avowed policy and objects.

43. In the same vein, reliance can be placed on a decision in the case of *Saurabh Chaudri and Ors v. UOI and Ors.*¹⁹, wherein, the principle of intelligible differentia was held to be pivotal in reasonably classifying groups of shared characteristics, as distinguished from other groups and such classification is justified, if it is aligned with the intended purpose sought to be achieved.

44. The twin test of reasonable classification and rationale nexus has also recently been applied by the Supreme Court in the case of *Rajbala v. State of Haryana*²⁰, wherein, the Court upheld the rationality of classification of five categories of persons, who were barred from contesting panchayat elections finding that the said classification was reasonable.

45. It is also pertinent to lend credence on the decision in the case of *State of Bombay v. FN Balsara*²¹, wherein, the Supreme Court took a view that every classification, to some degree, is likely to produce some inequality, and mere production of inequality is not enough. It further noted that the presumption is always in favour of the constitutionality of the enactment since it must be assumed that the legislature understands and correctly appreciates the need of its own people and the discrimination is based on adequate grounds.

46. Reliance can also be placed on the decision in the case of *RK Garg and Ors. v. Union of India*²², wherein, it has been held that the presumption of constitutionality is enhanced in the case of law of taxation and laws regulating economic activities as these laws are

¹⁹ AIR 2004 SC 2212

²⁰ (2016) 2 SCC 445

²¹ AIR 1951 SC 318

²² AIR 1981 SC 2138

conventionally understood to be the matters of policy which have been arrived at after due deliberations of the adept professionals. Therefore, only because there may be a probability of a better classification cannot be a ground to strike down policy for infringing fundamental right to equality.

47. Another test which has evolved over the course of time is the test of manifest arbitrariness. The foundation of this test lies in the fact that equality and arbitrariness cannot co-exist. An arbitrary action, which is neither based on reason nor on fair-play, essentially results into the propagation of inequality. In the facts of the present matter, however, there appears to be no reason to apply the tests in isolation as the primary question involved in the matter is with regard to the validity of a classification.

48. Upon a perusal of factual matrix of the case vis-à-vis the established position of law in the decisions referred hereinabove, it becomes evident that Section 116A of the DMC Act duly empowers MVC to recommend the classification of vacant lands and buildings in any ward of Delhi into colonies and groups of lands and buildings after taking into account the parameters enunciated, therein. On an overall examination of various parameters, if MVC finds that the group of certain buildings forms a separate class, the same can always be placed distinctly and separately from other categories of buildings. Such a placement, however, must satisfy the test of reasonableness and refute class legislation. The parameters which are essentially required to be examined, under Section 116A, *inter alia*, includes settlement patterns, availability of civic and social infrastructure, access to roads, access to district centres, local shopping centres,

convenience shopping centres, land prices and use-wise category of buildings etc.

49. If the characteristics of the shops situated in a mall are looked into, they certainly form a separate class on account of various reasons, namely, (i) they are located in an integrated complex comprising of bouquet of activities like eating joints, health and fitness, cyber cafes, corporate offices, pubs, etc.; (ii) the malls are in a way, one-stop destination catering to different needs of public at large; (iii) there is always highest quality of civic and social infrastructure available; (iv) on account of heavy footfall, corresponding extra burden is obvious on Corporation and on various other Departments; (v) the centres are comprising of multiple markets; (vi) every need of the consumer from a needle to an anchor is met at such places etc. These are only illustrative factors which distinguish the petitioners' entities from other entities of the similar nature in one or the other way. There are bound to be other aspects as well to draw such distinction from a normal shop situated in markets. Similarly, the entities at multiplexes, metro stations and flattened factory also stand out from traditional commercial setups of the similar nature, *inter alia*, due to their unique ability to generate high levels of activity, create commercial ecosystem around them and stimulate establishment of high value urban spaces. The overall footprint of such buildings/spaces on the available public resources is also on a different plane as compared to normal shops or markets.

50. On a conjoint reading of Section 114D, which prescribes different rates of taxation, between the minimum to maximum for different colonies or for different groups of buildings in such colonies and Section 116A of the DMC Act, the Court is of the considered

opinion that any placement of a set of buildings into a specific category cannot be said to be a class legislation, rather the same would be considered a reasonable classification. The said classification does not reek of arbitrariness. The factors, as prescribed under Section 116A, can together be accounted for in arriving at such conclusion and those shops/properties which are situated in a particular colony will have no bearing, in view of the specialities attached to the sets of specially classified shops/buildings. The location of shops in a shopping mall, a multiplex, entities at metro stations etc. cannot be compared with any other normal shop located in a local market. The high-end local markets, however, would be considered differently for their categorisation, but the same in itself will not detain MVC in placing a particular set of shops or buildings with similar facilities and ambience into Category 'A' and describing them to be *Super Commercial Properties*.

51. In the instant cases, more importantly, on publication of the interim report, the objections were invited with respect to the classification of properties and numerous other recommendations. Various objections were received and considered, thoroughly, by the MVC. It is an admitted position that none of the petitioners had raised any objections at the relevant point of time.

52. It is noteworthy that the MVC is a creation under the Statute and by virtue of the same, it is mandated to follow the procedure laid down in the DMC Act. The Court, under its power of judicial review can certainly examine the decision-making process, however, the decision arrived at *per se* cannot be made amenable to the review, unless the same is shown to be completely discriminatory, arbitrary or illegal.

53. The MVC-III *vide* its recommendations has assigned various reasons as to why there is a need to categorize some of the properties as *Super Commercial Properties*. The decision, therefore, is not bereft of application of mind. The same rather derives strength from the provisions of the DMC Act itself. Further, it needs to be noted that the inherent statutory purpose of MVC is classification of colonies, lands and buildings and thus, the MVC cannot be put to question for discharging its statutory duties unless the action is procedurally unconstitutional or reeks of arbitrariness or patent illegality or the classification is not based on the relevant parameters. The Court cannot lose its sight from the elementary purpose of the constitution of MVC itself and merely because MVC has reasoned the paying capacity of the shop owners as one of the factors for the categorisation, the entire decision cannot be disturbed when the same independently passes the scrutiny of law, particularly in light of the tenets of equality and the fact that it is based on due consideration of various other parameters.

54. It is well settled through various pronouncements of the Supreme Court that the principle underlying the guarantee in Article 14 of the Constitution of India is not that the same rules of law should be applicable to all persons within the territory of India or that the remedy should be made available to them irrespective of difference of circumstances. The said legal position has been reaffirmed even in the decisions relied upon by learned counsel appearing for the petitioners. Article 14 of the Constitution of India only signifies that all the individuals in similarly placed circumstances shall be treated alike, both in terms of privileges conferred and liabilities imposed. Undoubtedly, the legislature has a right of classifying persons and

placing those whose conditions are substantially similar under the same rigour of law, while applying different rules to persons who are differently situated. In making the classification, the legislature cannot certainly be expected to provide an 'abstract symmetry'. What is prohibited is arbitrary, artificial and an evasive classification. In essence, classification must hinge upon real and substantial distinction bearing a reasonable and just relation to the things in respect of which the classification is made. It also remains undisputed that the presumption is always in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been transgression of constitutional principles. Whether the classification, if any, is reasonable or arbitrary or is substantial has to be adjudicated upon by the Courts and the decision must turn more on one's common sense than on an over refined legal distinction of subtleties (See:*State of West Bengal v. Anwar Ali Sarkar*²³).

55. At this juncture, an ancillary issue which also merits consideration is the extent of judicial review which can be exercised to interfere with the authority of the Corporation to impose taxes.

56. It is beneficial to forthwith refer to the case of *Khandige Sham Bhat v. Agriculture Income Tax Officer*²⁴, wherein, the Supreme Court has held that the Courts, in view of the inherent complexity of fiscal legislation, admit a larger discretion to the legislature in the matters of classification, so long as it adheres to the fundamental principles underlying the doctrine of equality. The power of the legislature to classify is said to be of wide range and flexibility so that it can adjust its system of taxation in all proper and reasonable ways. In the case of *State of Kerala v. Haji K. Haji K. Kutty Naha and*

²³ AIR 1952 SC 75

²⁴ 1963 3 SCR 809

Ors.²⁵ relied upon by the petitioners, the classification was held to be not permissible as while enacting Kerala Building Tax Act, no attempt at any reasonable classification was found to have been made by the legislature. The class to which a building belongs, the nature of construction, the purpose for which it is used, its situation, its capacity for profitable use, and other relevant circumstances which have a bearing on matters of taxation were not considered, therein. The method was adopted merely on the basis of floor area of the building, irrespective of all other considerations. The Court noted that where objects, persons or transactions, essentially dissimilar, are treated by the imposition of a uniform tax, it may result into discrimination. A refusal to make a rational classification may itself in some cases operate as denial of equality. If the aforesaid enunciation of law is applied under the facts of the present case, the same would justify the recommendations of MVC-III, instead of sustaining the arguments of the petitioners. The recommendations of MVC-III consider the nature of the building, the object of its construction, persons who occupy the premises, nature of transactions, potential for generation of commercial activity, total constructed area and other circumstances as has been noticed in preceding paragraphs. It is thus seen that the decision in the case of **Haji K. Haji**²⁶ would not support the case of the petitioners.

57. The Supreme Court in the case of **S.Kodar**²⁷, while considering the argument of applicability of different rates of tax imposed on different dealers, has held that as long as the tax retains its avowed character and does not confiscate property to the State under the guise

²⁵ 1968 SCC OnLine SC 122

²⁶ AIR 1969 SUPREME COURT 378

²⁷ 1974 SCC (4) 422

of a tax, the reasonableness of the tax is outside judicial ken. The volume of rate of tax depending upon the turnover was held to be permissible, holding therein, that the basis for the same is that a large dealer occupies a position of economic superiority, thus, making his tax heavier is not arbitrary, rather it is an attempt to rationalise the payment proportionately with the capacity to pay and arrive at a more genuine equality. It has also been held that the economic wisdom of tax is within legislative domain. Similar view has been taken in the case of *Sadik Bakery*²⁸ wherein, the Supreme Court was called upon to consider whether there is rationality in prescribing different tax rates depending upon the capacity to pay tax. The Supreme Court took a view that there is rationality in the said proposition and the same principle was found to be sound in common sense and in consonance with the social justice. In the case of *Hoechst Pharmaceuticals*²⁹, the Supreme Court has held that on the question of economic regulations and related matters, the Court must prefer the legislative judgment.

58. Recently, in the case of *Vishal Tiwari v. Union of India*³⁰, the Supreme Court has reiterated the enunciation of law that the Court ought not to substitute its own view by supplanting the role of an expert, when technical questions arise particularly in the financial or economic realm; experts with domain knowledge in the field have expressed their views; and such views are duly considered by the expert regulator in designing policies and implementing them in the exercise of its power to frame subordinate legislation.

59. The settled law on the extent of jurisdiction of the Courts to test the constitutional validity of the fiscal statutes states that the taxing

²⁸ 1988 SCR (2) 7

²⁹ 1983 (4) SCC 45

³⁰ 2024 INSC 3

statute is not exposed to attack on the ground of discrimination merely because different rates of taxation are prescribed for different categories of persons, transactions, occupations or objects, as has been expounded in the case of *N. Venugopala Ravi Varma Rajah v. Union of India*³¹. Further, in the case of *The Amalgamated Tea Estates Co. Ltd. v. State of Kerala*³², it has been held that as revenue is the first necessity of the State and as taxes are raised for various purposes and by an adjustment of diverse elements, the Court grants to the State greater choice of classification in the field of taxation than in other spheres. It is also pertinent to note that the taxation regime of a country is a reflection of the social outlook of the country and a sound taxation policy lies at the core of the idea of social justice. For, the tool of taxation aims to impose a proportionate burden on the subjects for the collective benefit of all.

60. In the instant case, MVC-III was constituted in accordance with the statute comprising of experts and there is no assertion in the petitions that MVC-III has not acted as per the procedure laid down in the extant rules and regulations. MVC-III submitted its interim report on 25.06.2010 and thereafter, a sub-committee of five members was set up by the Corporation for scrutinizing the interim report. The sub-committee submitted its report to the Standing Committee of the Corporation. On 15.12.2010, the Standing Committee approved the report of the Sub-committee and recommended it to the Corporation. It is, only thereafter, that a notice was issued by the Corporation notifying the interim report of MVC-III declaring its intention to classify vacant land and building in each ward and inviting

³¹(1969) 1 SCC 681
³²(1974) 4 SCC 415

representation, thereon, as mandated by Section 116B of the DMC Act.

61. The aforesaid public notice dated 02.01.2011, received 131 representations which were duly scrutinized and heard by the MVC-III after fixing a date/time for each of them, through a notice issued in that regard. A public notice inviting suggestions, by the newly constituted MVC had also been issued on 09.09.2009 at the time of commencement of its work. The same had also led to numerous representations which were also heard by MVC-III along with the representations received pursuant to the public notice dated 02.01.2011. As stated in the counter-affidavit filed by the respondents, MVC-III held sixteen (16) hearings to consider the representations on various dates i.e., 24.01.2011, 28.01.2011, 31.01.2011, 02.02.2011, 04.02.2011, 09.01.2011, 11.02.2011, 14.02.2011, 21.02.2011, 23.02.2011, 25.02.2011, 28.02.2011, 04.03.2011, 07.03.2011, 09.03.2011 and 25.03.2011. It is only thereafter that MVC-III gave its final report which is binding upon the Corporation in terms of Section 116 B (2) of the DMC Act. Admittedly, none of the petitioners had at any point of time raised any objections. This Court, therefore, under such circumstances, is deprived of any consideration of the petitioners' objection in the first place itself, which further narrows the scope of interference directly by the Constitutional Court.

62. The petitioners have also strenuously argued that on account of the classification of land as per Delhi Circle Rates, 2014, the colonies in Delhi had already been categorised from 'A' to 'H' for the purposes of their monetary value based on various factors laid down therein, and therefore, classification of the entities present in a particular colony cannot be made differently from the colony they are located in.

However, the said argument also does not hold any water as if an entity stands on a different footing from the other entities located in the same colony and the same can be distinctly classified as similar to a different colony category, it would be justified to do so. Merely because an entity lies in a particular colony, it cannot be a sufficient reason to classify it in the same category despite the fact that the entity is differently placed in the said area. In fact, to do so would reflect obliviousness on the part of the municipal authorities from the prevailing ground realities of commercial spaces.

63. Even if one is to consider the relevant provision purely on the anvil of statutory interpretation, it is inescapable to note that colonies, lands and buildings are couched as separate entities for the purpose of classification. Thus, the classification of buildings, such as malls, metro stations etc., on the same piece of land is a permissible classification and the same is not contingent upon the classification of the land parcel on which such buildings are situated. If the submission of the petitioners is to be accepted, the same would tantamount to depriving the municipal authority from exercising its statutory mandate in its true letter and spirit.

64. An upshot of the aforesaid discussion would lead to conclude that the categorisation of the petitioners as *Super Commercial Properties* stands the scrutiny of Article 14 of the Constitution of India. The factors enumerated by MVC-III provide a clear and identifiable basis for a reasonable classification and more so, the said classification also meets the standards of rational nexus with the legitimate municipal objective. Therefore, the differential treatment alleged by the petitioners is in line with the Constitutional scheme and cannot be said to be arbitrary or whimsical.

65. The Court, therefore, finds that neither there is any unreasonable classification nor there is any violation of the provisions of Section 116A of the DMC Act. The argument with respect to unreasonable classification and the violation of the provisions of Section 116A of the DMC Act, stands rejected. Consequently, the Court does not find any reason, much less a cogent reason to interdict with the authority of imposition of tax which has been reasonably exercised by the Corporation.

Issue (ii)

66. Having decided the aforesaid issue against the petitioners, the Court shall now proceed to determine the validity of reopening of assessments for the previous years. An argument has been made on the strength of decision of this Court in the case of ***Ved Marwah***³³ that the Corporation in some of the writ petitions sought to recover property tax with retrospective effect.

67. If the controversy in the case of ***Ved Marwah***³⁴ is looked at, the same was related with respect to challenge laid under Section 72 of the New Delhi Municipal Council Act, 1994 (*hereinafter referred to as 'NDMC Act'*). In paragraph no.13 of the said decision, the Court noted that the notices for revising the assessment in all cases were issued over a decade prior to the passing of the final orders. While considering the provisions of Section 72 of the NDMC Act, the Court took note of the decision in the case of ***State of Punjab and Ors. v. Bhatinda District Corporate Milk Producers Union Ltd.***³⁵ with respect to limitation on exercise of such power and held that the finalisation of assessment list or its revision after over twelve years

³³2018 SCC OnLine Del 8096

³⁴2018 SCC OnLine Del 8096

³⁵(2007) 11 SCC 363

cannot be countenanced. The same was found to be unreasonable and arbitrary.

68. Section 123B of the DMC Act, in the instant cases, requires the owner of any vacant land or covered space of buildings or any other persons liable to pay the property tax or any occupier in the absence of such owner or person to file a return of self-assessment within 60 days of coming into force of the Amendment Act of 2003.

69. The argument with respect to retrospective taxation deserves to be considered in view of the period of the demand notice. The Corporation, by way of 'Chart no.1-Shops in Malls', has placed on record, *inter alia*, property details, challenge, assessment order details, demand notice, period and amount along with remarks. The said chart is extracted as under:-

Chart No. 1- SHOPS IN MALLS

A. (Demand Notice for the Period of MVC-I & MVC-III)

S.N o.	Case Title	Property Details	Prayers/Challenges	Assessment Order details	Demand Notice period and amount	Remark
1.	HARS H VARD HAN BANS AL V/s EAST DMC& ANR W.P.(C)- 13465/ 2021	Unit No. 27-28, GF, Unity One Mall. Plot no. 29 and 31, CBD Shahadar a, Delhi- 32.	- Quashing notification dt. 31.03.2017. 11.07.2018, 18.06.2019. - Quashing Assessment Notice and Order dt. 28.09.2021. - Quashing invoices dt. 03.05.2019 and 15.11.2019. demanding Rs.	Vide No. D-612 dtd 28.09.2021 (in favour of Harshvardhan Bansal) wef from 01.04.2008 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20	Amount - as per MVC 1 st - Rs. 6036941 (01.04.2008 to 31.03.2017) as per MVC 3 rd - Rs. 8757027 (2017-2018 and	No proper document submitted supporting payment of correct PTR before implementation of MVC-III Willfully & conscious omission to pay property

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			71,87,941 for 2017-19. - UAV factor- Rs. 630/-, UF-6, OF-2 and Category 'A' be quashed. - Property tax Rs. 28, 87,587.546 for the years 2008-2009 to 2021-22- is already deposited and the same to be taken as full and final payment.		2019-20) Total- Rs. 1,47,93,968 (with penalty and interest as on date) (after adjustment of the paid amount)	tax after the coming into effect of MVC-III Therefore, power U/s- 123D justifiably invoked
2.	SAVITRI MITTAL V/S EAST DMC & ANR W.P.(C) 13463/2021	Unit No. LG- 2, Unity One Mall Plot no. 29 and 31, CBD Shahadara, Delhi-32.	- Quashing notification dt. 30.06.2018, 11.07.2018, 18.06.2019. - Quashing Assessment Notice dt. 06.07.2021 and 13.07.2021 - Quashing Demand Notice dt. 11.10.2021 demanding Rs. 94,49,071 including penalty and interest for 2010-2020 - UAV factor- Rs. 630/-, UF-6, OF-2 and Category 'A' be quashed. - Property tax	Vide No. D-307 dtd 13.07.2021 (in favour of Petitioner) wef from 01.04.2010 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20.	Amount - MVC 1"- Rs. 31,67,060 (01.04.2010 to 31.03.2017) MVC 3 rd - Rs. 91,78,975 (2017-2018 and 2019-20) Total- Rs. 1,23,46,035 (with penalty and interest as on date) (after adjustment of the paid amount)	No proper document submitted supporting payment of correct PTR before implementation of MVC-III Willfully & conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s- 123D justifiably invoked

			Rs. 38,63,826 for the years 2008- 2009			
3.	SAVITRI MITTAL V/S EAST DMC & ANR W.P.(C) - 13468/2021	Unit No. GF-24, Unity One Mall, Plot no. 29 and 31, CBD Shahadar a, Delhi-32.	- Quashing notification dt. 29.03.2016, 30.06.2018, 11.07.2018, 18.06.2019. - Quashing Assessment Notice dt. 21.09.2021 - UAV factor- Rs. 630/-, UF-6, OF-2 and Category 'A' be quashed. - Property tax Rs.15,29,893 for the years 2008-2009 to 2021-2022 already deposited to be taken as full and final payment.	Vide No D-556 dtd 21.09.2021 (in favour of Petitioner) wef from 01.04.2010 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20.	Amount- as per MVC 1 st -Rs. 5,28,697 (01.04.2010 to 31.03.2017) as per MVC 3 rd -Rs. 38,28,917 (2017-2018 and 2019-20) Total- Rs. 43,57,614 (with penalty and interest as on date) (after adjustment of the paid amount)	No proper document submitted supporting payment of correct PTR before implementation of MVC-III Willfully & conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power Us-123D justifiably invoked
4.	RAKESH NANDA & ANR.	Unit No. F-102, V3S Mall, Plot no. 10	Quashing notification dt. 30.06.2018, 11.07.2018,	Vide No. D-810 dtd 13.11.2020 (in favour of Petitioner) wef from 01.04.2013	Amount - as per MVC 1 st -Rs. 51,244 (01.04.2013	No proper document submitted supporting payment of correct PTR before

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	V/s EAST DMC W.P.(C) - 2394/20 21	Lakshmi Nagar, District Centre, Delhi- 92	18.06.2019. Quashing Assessment Order dt. 13.11.2020 - Quashing Demand dt. Notice 13.11.2020 demanding Rs. 9,05,238 including penalty and interest for 2019-20 and - Restraining EDMC from taking coercive action on the basis of the aforesaid Demand Notice.	to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20.	to 31.03.2017) as per MVC 3 rd - Rs. 8,53,994 (2017-2018 and 2019- 20) Total- Rs. 9,05,238 (with penalty and interest as on date) (after adjustment of the paid amount)	implementa tion of MVC-III Willfully & conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s- 123D justifiably invoked
5.	GULSH AN CHAW LA AND ANR V/s EAST DMC & ANR W.P. (C)- 2864/20	Unit No. S- 201Unity One Mall, Plot no. 29 and 31, CBD Shahadar a, Delhi- 32.	- Quashing notification dt, 29.03.2016, 30.06.2018, 11.07.2018, 18.06.2019. - Quashing Assessment Notice dt. 09.12.2021.	Vide No. D-1166 dtd 09.12.2021 (in favour of Petitioner) wef from 01.04.2008 to 31.03.2017. After implementation of MVC 3, Bill for the Fy 2017-2018 to 2020-21	Amount - as per MVC 1 st - Rs. 25,20,555 (01.04.2008 to 31.03.2017) as per MVC 3 rd - Rs. 60,15,338 (2017-2018	No proper document submitted supporting payment of correct PTR before implementa tion of MVC-III Willfully conscious omission to

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	22		- Quashing Assessment Order dt. 17.03.2020. - Quashing Demand Notice dt. 04.01.2022 demanding Rs. 75,84,773 including penalty and interest for 2008-2021 and - UAV factor- Rs. 630/-, UF-6, OF-2 and Category 'A' be quashed. - Property tax Rs. 33,38,937, for the years 2008-2009 to 2021-22- already deposited to be taken as full payment.		and 2020-21) Total- Rs. 85,35,893 (with penalty and interest as on date) (after adjustment of the paid amount)	pay property tax after the coming into effect of MVC-III Therefore, rower U/s- 123D justifiably invoked
6.	BABIT A MITTA L V/s	Unit No. LG 3, LG, Unity One Mall,	Quashing notification dt. 30.06.2018, 11.07.2018,	Vide No. D-308 dtd 13.07.2021 (in favour of Petitioner) wef	Amount - as per MVC 1 st - Rs.	No proper document submitted supporting

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	EAST DMC & ANR W.P.(C) - 13224/2021	Plot no. 29 and 31, CBD Shahadar a, Delhi-32.	18.06.2019. • Quashing Demand Notice dt. 11.10.2021 demanding Rs. 86,34,899 including penalty and interest for 2010-2020 along with the condition in Demand Notice for non-payment • UAV factor- Rs. 630/-, UF-6, OF-2 and Category 'A' be quashed. • Property tax Rs. 31,07,177 for the years 2008-2009 to 2021-2022 already deposited to be taken as full and final payment.	from 01.04.2010 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20.	2162,141 (01.04.2008 to 31.03.2017) as per MVC 3 rd - Rs. 7955,410 (2017-2018 and 2019-20) Total - Rs. 1,01,17,552 (with penalty and interest as on date) (after adjustment of the paid amount)	payment of correct PTR before implementation of MVC-III Willfully & conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s-123D justifiably invoked
7.	BABIT A MITTA L V/s EAST DMC & ANR W.P.(C) - 13225/2021	Unit No. GF 23, Unity One Mall, Plot no. 29 and 31, CBD Shahadar a, Delhi-32.	Quashing notification dt. 30.06.2018, 11.07.2018, 18.06.2019. • Quashing Demand Notice dt. 12.10.2021 demanding Rs. 65,37,423 including penalty and interest for 2010-2020 along with the condition in Demand Notice for non-payment • UAV factor- Rs. 630/-, UF-6, OF-2 and Category 'A' be quashed. • Property tax Rs. 24,02,852 for the years 2008-2009 to 2021-2022 already deposited to be taken as full and final	Vide No. D-614 dtd 28.09.2021 (in favour of Petitioner) wef from 01.04.2010 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20.	Amount - as per MVC 1st- Rs. 8,57,220 (01.04.2010 to 31.03.2017) as per MVC 3 rd - Rs. 56,80,202 (2017-2018 and 2019-20) Total- Rs. 65,37,423 (with penalty and	No proper document submitted supporting payment of correct PTR before implementation of MVC-III! Willfully & conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s-123D justifiably invoked

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			payment.		interest as on date) (after adjustment of the paid amount)	
8.	RAM SWAR OOP JASWA L V/sEAS T DMC & ANR W.P.(C) - 1430/20 22	Unit No.G-46 A, B,C,D, GF, V3S Mall, Plot no. 10	Quashing notification dt. 30.06.2018, Lakshmi Nagar District Centre, Delhi- 92. 11.07.2018, 18.06.2019. • Quashing Notice dt. 06.12.2021 • Directing EDMC to not take coercive action on basis of Notice dt. 06.12.2021, and at large	AO- 46A, B, C- Vide No. D- 1455dtd 19.02.2021 (in favour of Petitioner) weffrom 01.04.2006 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2018-19. AO 46D- vide no. 1996 dtd. 19.03.2020 (in favour of Petitioner) wef from 01.04.2014 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20. as per MVC	46 A,B,C Demand Amount - as per MVC 1 st - Rs. 1508475(01.04.2006 to 31.03.2017) as per MVC 3 rd - RS. 1339131 (2017-2018 and 2018-19) Total- Rs. 2847606 (with penalty and interest as on date) (after adjustment of the paid amount) * 46 D Demand Amount - as per MVC 1 st - Rs. 135750 (01.	No proper document submitted supporting payment of correct PTRbefore implementa tion of MVC-III Willfully conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s- 123D justifiably invoked

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					04.2014 to 31.03.2017) as per MVC 3 rd - Rs. 728923 (2017-2018 and 2019-20) Total- Rs. 864674 (with penalty and interest as on date) (after adjustment of the paid amount)	
9.	SHASH I KANT CHAWLA AND ORS V/s EAST DMC & ANR W.P.(C) - 4374/2022	Unit No. S- 203, 204, 204A, SF, Unity One Mall, Plot no. 29 and 31, CBD Shahadar a, Delhi-32.	- Quashing notification 29.03.2016, dt. 30.06.2018, 11.07.2018, 18.06.2019. - Quashing Assessment Notice dt.04.12.2021. - Quashing Assessment Order dt. 14.12.2021 - Quashing Demand Notice dt. 04.01.2022 - demanding RS. 71,42,374 for Shop Nos. 203, 204, and Rs. 20,05,558 for Shop No. 204A including penalty and interest for 2008-2022, along with condition in Demand Notice for non-payment • UAV factor- Rs. 630/-, UF-6, OF-2 and Category 'A' be quashed. - Property	1. 203, 204 Vide No. D-1230 dtd 14.12.2021 (in favour of Petitioner) wef from 01.04.2008 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2021-22. 2. 204A- Vide No. D-1231 dtd 14.12.2021 (in favour of Petitioner) wef from 01.04.2008 to 31.03.2017. After implementation of	1. 203, 204A Amount - as per MVC 1"- Rs. 1617294(01.04.2008 to 31.03.2017) as per MVC 3"- Rs. 5525079 (2017-2018 and 2021-22) Total- Rs. 7142374 (with penalty and interest as on date)	No proper document submitted supporting payment of correct PTR before implementation of MVC-III! Willfully & conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s- 123D justifiably invoked

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			tax Rs. 13,60,748, for Shop Nos. 203,204 and Rs. 60,669 for Shop No. 204A for the years 2008-2009 to 2021-22- already deposited to be taken as full and final payment.	MVC 3, Bill for the FY 2017-2018 to 2021-22.	(after adjustment of the paid amount) 2. Demand for 204A- as per MVC 1"- Rs. 450048(01.04.2008 to 31.03.2017) as per MVC 3"- Rs. 1555540 (2017-2018 and 2021-22) Total- Rs. 2005588 (with penalty and interest as on date) (after adjustment of the paid amount)	
10.	NARE SH KUMAR AGGARWAL V/s EAST DMC & ANR W.P.(C)-13462/2021	Unit No. GF-25, Unity One Mall, Plot no. 29 and 31, CBD Shahadara, Delhi-32.		Vide No. D-550 dtd 21.09.2021 (in favour of Petitioner) wef from 01.04.2010 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20.	Amount - as per MVC 1"- Rs. 12,66,703 (01.04.2010 to 31.03.2017) as per MVC 3* - Rs. 79,70,346 (2017-2018 and 2019-20)	No proper document submitted supporting payment of correct PTR before implementation of MVC-III Willfully & conscious omission to pay property

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					Total- Rs92,37,04 9 (with penalty and interest as on date) (after adjustment of the paid amount)	tax after the coming into effect of MVC-III Therefore, power U/s- 123D justifiably invoked
11.	NARES H MALH OTRA AND ORS V/s EAST DMC & ANR W.P.(C) - 2790/20 22	Unit No. GF-30- 32, Unity One Mall, Plot no. 29 and 31, CBD Shahadar a, Delhi- 32.		Vide No. D-1367 dtd 21.12.2021 (in favour of Petitioner) wef from 01.04.2015 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2020-21.	Amount - as per MVC 1%- Rs. 265044 (01.04.2015 to 31.03.2017) as per MVC 3rd - Rs. 47,96,429 (2017-2018 and MVC- III 2020- 21) Total- Rs.50,61,47 3 (with penalty and interest as on date) (after adjustment of the paid amount)	No proper documenti submitted supporting payment of correct PTR before implementa tion of Willfully& conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s- 123D justifiably invoked
11.	HARIS H CHAW LA V/s EAST DMC & ANR W.P.(C)	Unit No. GF- 26,Unity One Mall, Plot no. 29 and		Vide No. D-535 dtd20.09.2021 (in favour of Petitioner) wef from 01.04.2008 to 31.03.2017.	Amount - as per MVC 1st.Rs. 1014199(01 .04.2008 to	No proper documents ubmitted supporting payment of correct PTR before implementa tion of

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	)- 2869/2 022	31, CBD Shahadar a, Delhi- 32.		After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20.	31.03.2017) as per MVC 3"*- Rs. 1613760(20 17-2018 and 2019- 20) Total- Rs. 26,27,958 (with penalty and interest as on date) (after adjustment of the paid amount)	MVC-III Willfully& conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s- 123D justifiably invoked
13.	MS AGGA RWAL PLAZ A PRIVA TE LIMIT ED V/s EAST DMC & ANR W.P.(C) - 2875/2 022	Unit No. GF- 29, Unity One Mall, Plot no. 29 and 31, CBD Shahadar a, Delhi- 32.		Vide No. D-1232, dtd 14.12.2021 (in favour of Petitioner) wef from 01.04.2008 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2021-22.	Amount - as per MVC 1-Rs. 2,15,534 (01.04.2008 to 31.03.2017) as per MVC 3rd - Rs. 1543823 (2017-2018 and 2021- 22) Total- Rs. 17,59,357 (with penalty and interest as on date) (after	No proper document submitted supporting payment of correct PTR before implementa tion of MVC-III Willfully& conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s- 123D justifiably invoked

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					adjustment of the paid amount)	
14.	ISHWAR R CHAN D MITTA L V/s EAST DMC & ANR W.P.(C) - 13219/2 021	Unit No. GF- 22, Unity One Mall, Plot no. 29 and 31, CBD Shahadar a, Delhi- 32.		Vide No. D-553, dt 21.09.2021 (in favour of Petitioner) wef from 01.04.2010 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20.	Amount - as per MVC 1\$_ Rs. 9,35,431 (01.04.201 0 to 31.03.2017) as per MVC 3"* - Rs. 5382512 (2017- 2018 and 2019-20) Total- Rs. 63,17,943(with penalty and interest as on date) (after adjustment of the paid amount)	
15.	ISHWER R CHAN D MITTA L V/S EAST DMC & ANR W.P.(C))- 13440/ 2021	Unit No. LG- 4, Unity One Mall, Plot no. 29 and 31, CBD Shahadar a, Delhi- 32.		Vide No. D-310, dtd 13.07.2021 (in favour of Petitioner) wef from 01.04.2010 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20.	Amount - as per MVC 1"- Rs. 1512686 (01.04.2010 to 31.03.2017) as per MVC 3d- Rs. 82,99,388 (2017-2018 and 2019- 20) Total-	No proper document submitted supporting payment of correct PTR before implementa tion of MVC-III Willfully conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s-

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					Rs. 9812074 (with penalty and interest as on date) (after adjustment of the paid amount)	123D justifiably invoked
16.	MUKE SH MITTA L V/s EAST DMC & ANR W.P.(C)- 13464/ 2021	Unit No. LG- 1, Unity One Mall, Plot no. 29 and 31, CBD Shahadar a, Delhi- 32.		Vide No. D-306, dtd 13.07.2021 (in favour of Petitioner wef from 01.04.2008 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20.	Amount - as per MVC 1st- Rs. 20,93,309 (01.04.2008 to 31.03.2017) as per MVC 3d- Rs. 7936739 (2017-2018 and 2019- 20) Total- Rs. 1,00,30,047 (with penalty and interest as on date) (after adjustment of the paid amount)	No proper document submitted supporting payment of correct PTRI before implementa tion of MVC-III Willfully & conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s- 123D justifiably invoked
17.	MUKE SH MITTA L V/S	Unit No. LG- 21,Unity		Assessment not done.	As per PTRAmou nt - as per MVC 1%- Rs.	

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	EAST DMC & ANR W.P.(C)-13470/2021	One Mall, Plot no. 29 and 31, CBD Shahadar a, Delhi-32.			1528216 (01.04.2008 to 31.03.2017) as per MVC 3d-Rs. 6560676(2017-2018 and 2020-21) Total-Rs. 8088892 (with penalty and interest as on date) (after adjustment of the paid amount)	
18.	NARESH KUMAR AGGARWAL V/s EAST DMC & ANR W.P. (C)-13490/2021	Unit No. LG-5, Unity One Mall, Plot no. 29 and 31, CBD Shahadar a, Delhi-32.		Vide No. D-312 dtd 13.07.2021 (in favour of Petitioner) wef from 01.04.2010 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20.	Amount - as per MVC 1"-Rs. 811562 (01.04.2010 to 31.03.2017) as per MVC 3 - Rs. 5858450(2017-2018 and 2019-20) Total-Rs. 6670012 (with penalty and interest as on date) (after	No proper document submitted supporting payment of correct PTR before implementation of MVC-III Willfully & conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s-123D justifiably invoked

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					adjustment of the paid amount)	
19.	NIRMAL JAIN AND ANR V/s EAST DMC & ANR W.P.(C)-2865/2022	Unit No. 205, 205A and 205B, Unity One Mall, Plot no. 29 and 31, CBD Shahadar a, Delhi-32.		Vide No. D-1219 dtd 14.12.2021 (in favour of Petitioner) wef from 01.04.2007 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2021-22.	Amount - as per MVC 18-Rs. 3728038 (01.04.2007 to 31.03.2017) as per MVC 3"-Rs. 11972825(2017-2018 and 2021-22) Total-Rs. 15700863(with penalty and interest as on date) (after adjustment of the paid amount)	No proper document submitted supporting payment of correct PTR before implementation of MVC-III Willfully& conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s-123D justifiably invoked
20.	20 SHREE LAKS HMI ROAD TRANSPORT CORP ORATION (REGD.) & ANR. V/s EAST DMC & ANR W.P.(C)-4169/2022	Unit No. F-103, FF, V35 Mall, Plot no. 10, Lakshmi Nagar Distt Centre, Delhi- 92.		Vide No. D-804 dtd 11.12.2020 (in favour of Petitioner) wef from 01.04.2010 to 31.03.2017. After implementation of MVC 3, Bill for the FY 2017-2018 to 2019-20.	Amount - as per MVC 1st. Rs. 766205 (01.04.2010 to 31.03.2017) as per MVC 3" - Rs. 1347911 (2017-2018 and 2019-20) Total-Rs. 2114116	No proper document submitted supporting payment of correct PTR before implementation of MVC-III Willfully& conscious omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s-123D

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					(with penalty and interest as on date) (after adjustment of the paid amount)	justifiably invoked
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B. Demand Notice for the Period MVC-III Only

S.No.	Case Title	Property Details	Prayer/Challenge	Assessment Order details	Demand Notice period and amount	Remarks
1.	RENU AGGARWAL V/s EAST DMC & ANR W.P.(C)-13222/2021	Unit No. GF Shop No. 7-10 Unity One Mall, Plot no. 29 and 31, CBD Shahadara, Delhi- 32.	Quashing Demand Notice dt. 14.09.2021 demanding Rs. 16,32,311 including penalty and interest for 2008- 2020 along with the condition in Demand Notice for non-payment • UAV factor- Rs. 630/-, UF-6, OF-2 and Category 'A' be quashed. • Property tax 7,55,765.2841 for the years 2008- 2009 to 2021-2022 already deposited to be taken as full and final payment.	Vide No. D-379 dtd 02.08.2021 (in favour of Petitioner) After implementat ion of MVC 3, Bill for the FY 2017-2018 to 2019-20.	Amount -as per MVC 3"- Rs. 14,69,053 (from 2017-2018 and 2019-20) (with penalty and interest as on date) (after adjustment of the paid amount)	Willfully & consciou s omission to pay property tax after the coming into effect of MVC-III Therefore, power U/s- 123D justifiabl y invoked
2.	NEELAM JAIN ANR V/s EAST DMC & ANR	Unit No. F-117, Unity One Mall, Plot no. 29 and 31,		Vide No. D-1366 dtd 21.12.2021 (in favour of	Amount - as per MVC 3"- Rs. 10,16,099(01.04. 2017 to 31.03.2021)	Willfully & consciou s omission

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	W.P.(C)- 2868/2022	CBD Shahadara, Delhi- 32.		Petitioner) After implementat ion of MVC 3, Bill for the FY 2017-2018 to 2020-21.	(with penalty and interest as on date) (after adjustment of the paid amount)	to pay property tax after the coming into effect of MVC-III Therefor e, power U/s- 123D justifiabl y invoked
3.	SH. SUBHAS H JAIN AND ANR. V/S EAST DMC & ANR W.P.(C)- 13912/201 9	G-1-C, Cross River Mall, Plot No. 9B and 9C, CBD Shahadara, Delhi- 32.		Vide No. D- 1120, dtd 25.09.2019 (in favour of Petitioner) wef from 01.04.2008 to 31.03.2017. After implementat ion of MVC 3, Bill for the FY 2017-2018 to 2018-19.	Amount - as per MVC 3d- Rs. 596817 (2017- 2018 and 2018- 19) (with penalty and interest as on date) (after adjustment of the paid amount)	
4.	RAJNI CHAWLA V/s EAST DMC & ANR W.P.(C)- 2867/2022	Unit No. GF 12, Unity One Mall, Plot no. 29 and 31, CBD Shahadara, Delhi- 32.	- Quashing notification dt. 29.03.2016, 30.06.2018, 11.07.2018, 18.06.2019. - Quashing Assessment Notice dt. 05.10.2021. - Quashing Assessment Order dt. 17.03.2020, 13.09.2021 and 16.09.2021 - Quashing Demand Notice dt. 04.01.2022	Vide No. D- 650 dtd 05.10.2021 (in favour of Petitioner) After implementat ion of MVC 3, Bill for the FY 2017-2018 to 2020-21.	Amount - as per MVC 3d- Rs. 2526090 (2017- 2018 and 2020- 21) (with penalty and interest as on date) (after adjustment of the paid amount)	Willfully & consciou s omission to pay property tax after the coming into effect of MVC-III Therefor e, power U/s- 123D justifiabl y invoked

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			demanding Rs. 25,26,090 including penalty and interest for 2010-2021. • UAV factor- Rs. 630/-, UF-6, OF-2 and Category 'A' be quashed. • Property tax Rs. 8,89,811, for the years 2008-2009 to 2021-22- already deposited to be taken as full and final payment.			
5.	VIKAS REALITY SERVICE S LLP V/s MCD W.P.(C)-4051/2023	F-108, 109, 110 purchased on 15.07.2020 vide separate sale deeds.	• Quashing /setting aside notification dated 29.03.2016. • Quashing / setting aside notification dated 30.06.2018	Assessment not done as yet Unit wise. No documents provided.	NA Demand can be raised subject to the submission of authentic documents U/s 175 of the DMC Act, 1957 by the tax payer.	No Assessment Order as no documents furnished by the Petitioner.
6.	VIKAS PROMOTE RS PVT LTD V/s MCD W.P.(C)-4161/2023	F-101 and 102 area 1040 meter & Sq G-14,15,21,22,29,32,34,35 and 40A area 358.79Sq meter	• Permission to deposit tax prior to the implementation of MVC-III report and as per earlier category - F.	Assessment not done as yet Unit wise.	NA Demand can be raised subject to the submission of authentic documents U/s 175 of the DMC Act, 1957 by the tax payer.	No Assessment Order as no documents furnished by the Petitioner
7.	VIPUL GARGAN D ANR. V/s MCD W.P.(C)-4175/2023	F-116, VikasCine mall	• Quashing / setting aside notification dated 30.06.2018, 11.07.2018 and 18.06.2019.	Assessment not done as yet Unit wise.	NA Demand can be raised subject to the submission of authentic documents U/s 175 of the DMC Act, 1957 by the	No Assessment Order as no documents furnished by the

					tax payer..	r.
	M/S BASANT PROJECTS LIMITED V/s EAST DMC & ANR W.P.(C)- 624/2020	Dilshad garden metro station	Quashing notification dated 30.06.2018, 11.07.2018, 18.06.2018. • Quashing Demand notice dated 19.11.2019, demanding a sum of Rs. 58,49,526 for year 2017-19. • UAV factor- Rs. 630/-, UF- 6, OF-2 and Category 'A' be quashed. • Excess amount of Rs. 19,21,390 paid be adjusted for future demands.	Vide No. 2301 dtd 08.02.2019 (in favour of DMRC) * Wef from 2012-2013 to 2017- 2018 - After implementat ion of MVC 3, Bill for the FY 2017-2018 and 2018- 19 revised.	Amount - As per MVC 1*- Rs. 25242029 (from FY 2012-13 to 2016-17) as per MVC 3°-Rs. 8,92,59,967 Total- Rs. 13,41,10118 (with penalty and interest as on August 2024) (after adjustment of the paid amount for the year 2012-13 to 2021-22)	-All the propertie s of MRC under the jurisdicti on of EDMC are assessed afresh.

70. Upon a perusal of the aforesaid Chart no.1, it is discernible that the period of demand notice up to 31.03.2017 is as per MVC-I and the period commencing from 01.04.2017 up to 31.03.2020 (19-20) is as per MVC-III. With respect to metro entities, flattened factories and multiplexes, Chart no.2, Chart no.3 and Chart no.4, respectively, have been placed on record. In those cases, there is no demand with respect to earlier years. An argument has been raised that in case of violation of the provisions under Section 123D of the DMC Act, the Commissioner is empowered to make *suo motu* assessment if the case falls within the category of Section 123D of the DMC Act.

71. It is stated that in the instant cases as well, the self-assessment return was not filed as per the applicable criteria and the information furnished in the return was found to be incorrect. A distinction is

sought to be drawn from the case of *Ved Marwah*³⁶ on the ground that the said case was related to the NDMC and despite issuance of notice, the assessment was finalized after over 12 years and therefore, the same was held to be not permissible. The respondents, therefore, submit that in the present set of cases, the duty was primarily cast upon the petitioners to appropriately and timely make the payment, as per applicable recommendations of the relevant MVC and if the petitioners have not adhered to the same, Section 123D of the DMC Act empowers the Commissioner to either make *suo motu* assessment, revise any assessment, reopen any assessment or to impose a penalty.

72. The Corporation in its counter-affidavit from paragraph no.38 onwards, while adverting to the aforesaid submissions, has stated that the petitioners were given the notice and were also afforded personal hearing. However, neither any of the petitioners appeared nor did they file any document that the Department proceeded to assess the property *suo motu* on the basis of available information for the period lying between financial years 2008-2009 to 2019-2020. Paragraph nos.38 to 42 of the said counter-affidavit read as under:-

"38. That, for assessment period FY 2008-09 to FY 2019-20, an Assessment Notice dated 17.03.2020 under Section 123D of the DMC Act, 1957 was issued to the petitioner, copy of which is annexed hereto as ANNEXURE 6. The petitioner was asked to appear for personal hearing on 23.03.2020 by way of the said notice dated 17.03.2020. However, neither the petitioner appeared nor filed any documents. Thus, the department proceeded to assess the property suo-moto on the basis of available information for the period, FY 2008-09 to FY 2019-20.

39. That the petitioner failed to appear before EDMC/ Respondent No. 1 and make its case, despite opportunity in this regard provided to the petitioner vide Assessment Notice dated 17.03.2020. Thus, the Impugned Order was duly passed with respect to the property of the petitioner by the Assessment and Collection Department (HQ), EDMC. EDMC/ Respondent No. 1

then issued a Property Tax Bill under Section 153 of the DMC Act, 1957, dated 28.09.2021, copy of which is annexed hereto as ANNEXURE 7. Subsequently, the petitioner sent a letter to EDMC/ Respondent No. 1 on 05.10.2021 (Page 125 of the Appeal). EDMC/ Respondent No. 1 sent a response to petitioner's letter dated 05.10.2021 vide letter dated 12.10.2021, copy of which is annexed hereto as ANNEXURE 8. EDMC/ Respondent No. 1 then issued a Demand Notice under Section 154 (1) of the DMC Act, 1957, dated 12.10.2021, copy of which is annexed hereto as ANNEXURE 9. The petitioner also sent a letter to EDMC/ Respondent NO.1 on 21.10.2021 (Page 126 of the Appeal).

40. That subsequently, the petitioner has neither challenged the said Assessment Notice dated 17.03.2020, nor the associated Impugned Order dated 28.09.2021 and Demand Notice dated 12.10.2021 before the Municipal Taxation Tribunal ('MTT') in terms of Section 169 and 170 of the DMC Act, 1957. Therefore, the aforementioned Assessment Notice, Impugned Order and Demand Notice have attained finality and the petitioner is liable to make payments towards property tax in terms of the Impugned Order. Therefore, on this ground also, the present petition is not maintainable and is liable to be dismissed.

41. That, for assessment period F.Y. 2020-21, the Impugned Notice under Section 123D of the DMC Act, 1957 was issued to the petitioner. The petitioner was asked to appear for personal hearing on 05.10.2021 by way of the Impugned Notice. However, neither the petitioner appeared nor filed any documents. As of now, no Assessment order or Demand notice has been issued pursuant to the Impugned Notice.

42. That the property tax payable by the petitioner now is as per the recommendations of MVC-III. MVC-III categorically records that all commercial properties measuring 1500 sq. ft. or more being treated as 'Category A' properties. Further, the property like that of the petitioner, which is a Shop/Superstore in a Mall, is treated as big/super/special commercial property. Therefore, the Unit Area Value (UAV) for the property of the petitioner is as per the recommendation of MVC-III for the categories of properties to which the petitioner's property belongs. The recommendations of the MVC were adopted after following due procedure as detailed in the DMC Act, 1957. The EDMC is bound by the recommendations of the MVC after due procedure is followed as given in the said Act i.e. declaration and public notice and consideration of objections/ representations of the general public by the MVC. As already submitted, MVC is a statutory body constituted by the Delhi Govt. Therefore, the categorization, Use Factor, UAV, structure factor, occupancy factor, etc. are all given by the MVC in terms of its statutory

functions, which are binding on the Municipal Corporation in terms of Section 1168 (2) of the DMC Act, 1957. Thus, the various contentions raised by the petitioner in the present petition, are totally untenable and liable to be rejected."

73. The petitioners have not specifically controverted the aforesaid assertions.

74. At this juncture, it is also pertinent to take note of the decision in the case of ***Springdales School v. North Delhi Municipal Corporation and Ors.***³⁷ relied upon by the petitioners, wherein, this Court had passed directions subjecting the exercise of power of assessment under Section 123D of the DMC Act to various conditions. The said conditions *inter alia* includes the assessment orders should be specific about the deliberate omissions or facts suppressed by the tax assesses etc. The decision of this Court was subsequently challenged by the Corporation before the Supreme Court, which stayed the aforesaid aspect. However, the subject matter is still *sub judice* before the Supreme Court. Hence, the Court is of the opinion that the grievance of the petitioners relating to the re-opening of the assessment by the Commissioner under Section 123D of the DMC Act, at this stage, can only be adjudicated appropriately by the appellate authority. The law laid in the case of ***Ved Marwah***³⁸, at this stage, would not benefit the petitioner on account of various distinguishable features as noted in the foregoing paragraphs No.72 and hence, the Court refrains from rendering any conclusive findings.

75. It be also noted that a consideration of the aforesaid argument, would necessarily require factual scrutiny of each case as to how the self-assessment was made by the petitioners and whether, there is any factual inaccuracy, suppression, or complete non-submission of the

³⁷2017 SCC OnLine Del 7050

³⁸2018 SCC OnLine Del 8096

self-assessment itself. In absence of there being complete record before this Court with respect to each case, it would not be wise to straight away render any finding. There is already a remedy under Section 169 of the DMC Act to file an appeal against an order of assessment. Therefore, in all fairness, the petitioners should avail the said remedy.

76. The issue with respect to the liability of property tax by DMRC is already pending adjudication before this Court in writ petition being W.P. (C) 831/2019 and other connected matters and therefore, any finding with respect to liability of DMRC would prejudice the rights and contentions of the parties raised in those writ petitions. However, the petitioners herein, who are in possession of the area allotted by DMRC, shall continue to remain liable for payment of property tax. The same, however, shall be subject to further directions to be passed in pending writ petitions.

77. With respect to the argument that in one of the cases the area is less than 1500 sq. ft., the Court takes note of the recommendations of MVC which do not restrict the applicability of the criteria depending upon the individual shop area, rather, the same pertains to the total area of the mall and if it exceeds an area of 1500 sq. ft., the recommendations of MVC would be attracted, irrespective of the area of the individual shop. The same argument, thus, stands rejected.

78. The Court, therefore, upholds the categorisation of the petitioner entities as *Super Commercial Properties* as a distinct category for the purposes of taxation. With respect to the issue of re-opening of assessment as well as alleged retrospective taxation, the petitioners are at liberty to resort to alternate remedy as remedial measures discussed hereinabove.

79. In view of the aforesaid terms, the writ petitions stand disposed of alongwith pending applications.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

NOVEMBER 11, 2024

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