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

\+ W.P.(C) 88/2024

BHARAT PETROLEUM CORPORATION LIMITED..... Petitioner
Through: Mr. Anil Kumar Batra, Mr. Devishah Batra and Ms. Shailja Yadav, Advs.

versus

NEW DELHI MUNICIPAL COUNCIL ..... Respondent
Through: Mr. Arvind Kr. Sharma and Ms. Anitya Sharma, Adv.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **04.01.2024**

CM APPL.352/2024 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 88/2024 and CM APPL.353/2024 (Stay)

1. The petitioner is aggrieved by a demand notice raised by the respondent based on notices under Section 72 of the New Delhi Municipal Corporation Act, 1994 (hereinafter referred to as 'NDMC Act'), stated to have been received by the petitioner on 29.03.2007 and 29.03.2013. The same are stated to have been duly responded to by the petitioner. However, it has been submitted that without appreciating the response of the petitioner, an order under Section 72 of the NDMC Act, 1994 came to be passed on 22.03.2018, stating as under:

"***NEW DELHI MUNICIPAL COUNCIL***
PALIKA KENDRA: NEW DELHI
(Property Tax Department)

A.O.No.T.I-(8)/1483J.D.(Tax)/2018 **Dated 22.03.2018**

Premises No.	*:-*	*WORKSHOP, MODERN SERVICE STATION JANPATH, JANPATH, NEW DELHI*
Name of the owner	*:-*	*Bharat Petroleum Corporation Ltd., Bijwasan Installation, Bijwasan, New Delhi*
Existing R.V.	*:-*	*₹39,400/-*
PID No.	*:-*	*5985*

ORDER U/S – 72 OF NDMC ACT, 1994

Three notices dated: 31.03.2006, 31.03.2007 and 31.03.2007 were given to the then owner Burmah Shell Oil Storage Distribution of India Ltd., U/S-72 of the NDMC Act 1994 with the proposal to revise the existing rateable value from Rs. 39,400/- to ₹11,53,350/- w.e.f 01.04.2005 and to ₹76,29,100/- w.e.f 01.04.2006.

A communication has been received from Territory Manager, Bharat Petroleum Corporation Ltd. Requesting to change the name and address of the company from Burmah Shell Oil Storage Distribution of India Ltd. To Bharat Petroleum Corporation Ltd., Bijwasan Installation, Bijwasan, New Delhi, which has been done in the record.

However, the assessee has not filed any written objection against the proposed RV. Therefore, NDMC is left with no other option but to finalize the RV on the basis of information and documents available on record, as under :-

w.e.f. 01.04.2005 to 31.03.2006
₹11,53,350/-
w.e.f. 01.04.2006
₹ 76,29,100/-

This order decides notice dated: 31.03.2006, 31.03.2007 and 31.03.2007 given u/s :- 72 of NDMC Act 1994 and RV of the property is finalized at ₹ 1,53,350/- w.e.f. 01.04.2005 to 31.03.2006 and ₹ 76,29,100/- w.e.f. 01.04.2006 onward.

Issue bill on revised RV

(A.N. GAUR)
Jt. Director (Tax)/
Assessing Authority"

2. Subsequently, demand notices in respect of the property in question

came to be raised on the petitioner, the latest being dated 22.05.2023 raising a demand of Rs.38,593,723/-.

3. Learned counsel for the petitioner submits that various demand letters issued by the respondent in the aftermath of the aforesaid order dated 22.03.2018 were responded to by the petitioner. He further submits that the order dated 22.03.2018 and the various demand letters are *ultra vires* the NDMC Act, 1994 and also in contravention of the judgment of Division Bench of this court in "***Ved Marwah vs. New Delhi Municipal Council***" 2018 SCC OnLine 8096.

4. Issue notice.

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

6. Learned counsel for the respondent has drawn attention to Sections 115, 116 and 117 of the NDMC Act, 1994 which clearly provides for an appeal against the order passed under Section 72 of the NDMC Act, 1994.

7. Learned counsel for the petitioner does not controvert that the order dated 22.03.2018 is, in fact, an appealable order. However, learned counsel for the petitioner submits that the petitioner did not avail the option of filing an appeal because officials of the respondent required/ advised the petitioner to submit a representation, which was duly submitted, and which has been under consideration of the respondent. However, no decision is stated to have been taken thereon.

8. Since the order impugned in the present petition is admittedly an appealable order, it would be apposite to relegate the petitioner to avail appellate remedy as contemplated under Section 115 of the NDMC Act, 1994.

9. Learned counsel for the petitioner submits that in the peculiar facts and circumstances of the case, the delay in preferring the appeal deserves to be condoned. Attention is drawn to Section 117 of the NDMC Act, 1994 which specifically provides that an appeal may be admitted after expiration of the period prescribed under Section 116A, if the appellant satisfies the court that it had sufficient cause for not preferring the appeal within the prescribed period. The petitioner is at liberty to move an appropriate application seeking condonation of delay before the concerned appellate authority.

10. Learned counsel for the petitioner submits that an appeal together with an application for condonation of delay shall be filed within 30 days from today.

11. Granting liberty to the petitioner to avail the statutorily prescribed appellate remedy, the present petition stands disposed of. In the interregnum, the respondent shall not take any coercive steps against the petitioner for a period of 30 days.

12. The present petition stands disposed of in the aforesaid terms.

SACHIN DATTA, J

JANUARY 4, 2024/cl