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

\+ W.P.(C) 17029/2024 & CM APPL. 72151/2024

KAVITA DALMIA AND ANR .....Petitioners

Through: Mr. Sumit Bansal, Senior Advocate with Mr. Udaibir Singh Kochar, Mr. Pushkar Khanna, Ms. Tulna Rampal & Ms. Samvartika Pathak, Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL (NDMC) AND ANR .....Respondents

Through: Mr. Yoginder Handoo, ASC with Mr. Ashwin Kataria, Advocates.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **10.12.2024**

1. By way of this petition under Article 226 of the Constitution, the petitioner assails an assessment order dated 06.05.2024 passed by the New Delhi Municipal Council ["NDMC"] under Section 72 of the New Delhi Municipal Council Act, 1994 in respect of her property being *1, Tees January Marg, New Delhi* ["subject property"].

2. The impugned assessment order records that the notice dated 30.03.2023 was issued, proposing to revised the rateable value of the subject property and that no objection was received from the recorded owner "*as per available record in the file*".

3. The petitioner, however, has placed on record a communication dated 25.04.2023, by which she and the other recorded owners replied to the aforesaid notice dated 30.03.2023. The said document bears the stamp of NDMC also. Additionally, the petitioner claims to have sent the document by speed post and a speed post receipt has also been annexed to the writ petition.

4. After the receipt of a property tax bill based upon the impugned order, the petitioner has also addressed a communication dated 28.06.2024 to the respondent No. 2 [Annexure P-11 to the writ petition], wherein the aforesaid letter dated 25.04.2023 has been referenced.

5. Mr. Yoginder Handoo, learned Additional Standing Counsel for NDMC, who appears on advance notice, submits, upon instructions, that the respondent will consider the matter afresh and pass a fresh assessment order, considering the submissions of the petitioner, and after giving her an opportunity of hearing.

6. In view of the submissions of Mr. Handoo, the writ petition is allowed and the impugned order dated 06.05.2024 is set aside. The petitioner or her authorised representative will appear before the Assessing Authority on 17.12.2024 on 3:00 PM. She will also submit a comprehensive representation. NDMC is at liberty to pass a fresh assessment order, after considering the representation and submission of the petitioner. In the event, the petitioner is remained aggrieved by the order, she may be challenged the order in accordance with law.

7. While this takes care of the petitioner's grievance in this matter, it may be noted that this is not the first instance, when the Court has come across an assessment order passed by NDMC in which the assessee's

objections to the show cause notice have been ignored. In *Rajeev Vasudeva v. NDMC,* [W.P.(C) 10297/2024] decided on 30.07.2024, this Court, while setting aside the assessment order and consequential bill issued by NDMC, observed that the unequivocal stand of NDMC that no replies to the show cause notices had been received from the petitioner, was factually incorrect. In *Ravindra Bahl and Anr. vs. New Delhi Municipal Council* [W.P.(C) 14861/2024], this Court directed NDMC to withdraw the impugned assessment order and pass a fresh order, observing that the reply to the show cause notice filed by the petitioners was not considered by NDMC while passing the assessment order. Although the present matter has been resolved at the first instance with the intervention of Mr. Handoo, it is a matter of concern that NDMC proceeds on this basis, thus rendering the procedure of issuance of show cause notice meaningless. Mr. Handoo is requested to forward a copy of this order, directly to the Chairperson, NDMC so that necessary corrective measures can be instituted.

8. The writ petition, alongwith the pending application, stands disposed of.

PRATEEK JALAN, J

DECEMBER 10, 2024
'pv/JM'/