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

\+ W.P.(C) 2186/2025 and CM APPL. 10301/2025

R.J. TRADE WINGS (P) LTD. .....Petitioner
Through: Mr. Subhash C. Jindal, Advocate.

versus

NEW DELHI MUNICIPAL COUNCIL & ORS. .....Respondents
Through: Mr. Yoginder Handoo, ASC with Mr.Ashwin Kataria and Mr. Garvit Solanki, Advocates for Respondents/NDMC.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

<u>O R D E R</u>

% **19.02.2025**

1. By this writ petition, Petitioner assails the Assessment/Rectification Order dated 02.05.2024, purportedly received on 23.01.2025 passed by NDMC in respect of property bearing No. K-43, First Floor, Opposite Plaza Cinema, Connaught Place, New Delhi ('subject property'). Direction is sought to NDMC to rectify the Assessment Order after giving opportunity of hearing to the Petitioner.

2. Petitioner is the recorded owner of the subject property measuring 1524.46 sq.ft. and is stated to be paying property tax bills regularly as per law. Case of the Petitioner as set out in the writ petition is that NDMC had earlier issued notice dated 30.03.2017 under Section 72 of New Delhi Municipal Council Act, 1994 ('NDMC Act') proposing revision of Rateable Value from Rs.3,76,200/- to Rs.2,83,33,800/- w.e.f. 01.04.2016 on the basis of comparative rent. Petitioner contested the assessment and filed its reply dated 03.05.2017, however, without looking into the objections and following the procedure as also overlooking that the property was self-

occupied and could not be assessed on comparative rent basis, after introduction of Unit Area Method, Assessment Order was passed on 13.07.2017, followed by property tax bill dated 25.07.2017 for a sum of Rs.31,32,063/-. On receipt of the bill, Petitioner gave representation dated 28.08.2017 after depositing property tax of Rs.49,572/- for rectification of the bill dated 25.07.2017. No relief was given by NDMC and a new property tax bill dated 11.12.2017 was sent for a sum of Rs.62,40,188/-. After depositing sum of Rs.58,722/- and filing PTR form on 26.12.2017, Petitioner gave a representation dated 27.12.2017.

3. It is averred that Petitioner challenged the Assessment Order and bill dated 11.12.2017 before this Court in W.P. (C) No. 2858/2018, which was disposed of on 10.04.2018 directing NDMC to decide the representation dated 27.12.2017 and pass a reasoned and speaking order. Petitioner was called for personal hearing on 08.06.2018, which was attended by the Authorised Representative and written submissions were given. NDMC thereafter issued notice dated 27.03.2019 under Section 72 of the NDMC Act, revising the Rateable Value to Rs.1,81,27,800/- w.e.f. 01.04.2018 on the basis of comparable rent @ Rs.746/- per sq.ft. per month fetched by a property at Connaught Place.

4. It is further averred that reply was filed to the notice by letter dated 08.05.2019 along with necessary documents. After the subject property was desealed on 23.10.2019, Petitioner renovated the premises and rented it out at a rent of Rs.1,54,000/-. NDMC raised a tax bill dated 19.10.2019 for a sum of Rs.1,24,38,138/- against which objections were filed and Petitioner deposited tax of Rs.3,38,169/-. As NDMC was continuing to assess on comparable rent basis and reasoned and speaking order was not passed as

per directions of this Court, Petitioner again filed W.P. (C) No. 5651/2024, which was disposed of 23.04.2024 with a limited direction to decide the representation dated 27.12.2017 read with 28.08.2017, which were pending for over six years.

5. Petitioner avers that it received a letter dated 04.10.2024 on 08.10.2024 sent by NDMC fixing 07.10.2024 as the date of hearing. As the letter was received after the date of hearing, Petitioner requested for refixing the hearing, however, instead of fixing a fresh date NDMC issued show cause notice dated 23.12.2024 and raised a demand of Rs.84,04,715/- up to 31.03.2025 without even supplying copy of the Assessment Order dated 02.05.2024 which they passed in the meantime, compelling the Petitioner to approach this Court again.

6. Learned counsel for Petitioner, *inter alia*, argues that by a notice dated 04.10.2024 NDMC had in compliance of order of this Court dated 23.04.2024 called the Petitioner for a personal hearing on 07.10.2024 but the notice itself was received on 08.10.2024 and instead of refixing the date and granting personal hearing, impugned Assessment Order was issued on 02.05.2024. This clearly violates principles of natural justice and also directions passed by this Court. Assessment Order is illegal on several grounds including the assessment being on comparable rent basis as also based on a wrong calculation of the area of the premises in question inasmuch as NDMC in the rectification order has taken the area as 2250 sq.ft. instead of 1524.46 sq.ft. for which the Petitioner had applied for renovation permission on 07.12.2018 with site plan.

7. Mr. Yoginder Handoo, learned ASC for Respondents/NDMC, fairly and candidly does not dispute that personal hearing was not granted to the

Petitioner before passing the impugned order and this possibly happened as inadvertently it was overlooked that notice dated 04.10.2024 was not served on the Petitioner prior to 07.10.2024, i.e. the date of personal hearing and therefore NDMC has no objection in calling the Petitioner again for a personal hearing.

8. Having heard learned counsels for the parties, Court finds merit in the contention of the Petitioner that no personal hearing was accorded before passing the impugned Assessment Order and for this Petitioner cannot be blamed as the notice dated 04.10.2024 was served only on 08.10.2024, i.e. after the date of hearing. In this light Petitioner deserves to be granted personal hearing by NDMC to put forth its stand with respect to the Assessment Order and the consequent property tax bills.

9. Accordingly, without entering into the merits of the case, it is directed that Authorised Representative of the Petitioner shall appear before the Joint Director (Tax) at NDMC, Palika Kendra, New Delhi on 12.03.2025 at 03:00 P.M. for a personal hearing. It will be open to the Petitioner to furnish documents in support of its case including written submissions. After the personal hearing is concluded, fresh Assessment Order shall be passed by NDMC, which will be communicated to the Petitioner and Petitioner will be at liberty to take recourse to legal remedies in case of any surviving or further grievance.

10. Impugned Assessment Order dated 02.05.2024 is hereby quashed and writ petition along with pending application, stands disposed of.

11. All rights and contentions of the parties are left open.

JYOTI SINGH, J

FEBRUARY 19, 2025/*B.S. Rohella*