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

\+ W.P.(C) 3460/2025, CM APPL. 16187/2025 & CM APPL. 16188/2025

M/S HANSALAYA PROPERTIES .....Petitioner

Through: Mr. Madan Gera, Advocate
Mob: 9811085940

versus

NEW DELHI MUNICIPAL COUNCIL .....Respondent

Through: Mr. Sanjay Sharma, Additional Standing Counsel for NDMC

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

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

% **19.03.2025**

<u>CM APPL. 16188/2025 (For Exemption)</u>

1. Exemption allowed, subject to just exceptions.

2. Application is disposed of.

<u>W.P.(C) 3460/2025 & CM APPL. 16187/2025</u>

3. The present writ petition has been filed challenging the attachment notice dated 12th March, 2025, through warrant, issued under Section 102(1) of New Delhi Municipal Council Act, 1994, *qua* property bearing no. *Flat Nos. 3-G & 3-H at 3rd Floor, Hansalaya, New Delhi*.

4. Learned counsel appearing for the petitioner submits that a warrant dated 12th March, 2025, has been issued by the respondent, which has been passed on the basis that outstanding dues, have not been paid by the petitioner towards the property tax.

5. Learned counsel appearing for the petitioner submits that there is no

provision for sealing of a property on account of non-payment of property tax. He, thus, submits that by way of warrant notice dated 12th March, 2025, the respondent-New Delhi Municipal Council ("NDMC") is acting in a high-handed manner.

6. He draws the attention of this Court to a notice dated 23rd February, 2011, issued by the respondent-NDMC, wherein, the NDMC sought to provisionally increase the rateable value.

7. Learned counsel for the petitioner submits that the proposed rateable value, was on the basis of New Annual Rent Bye Laws, 2009 ("Unit Area Method"), which already stands struck off by the Division Bench of this Court, and as upheld by the Supreme Court.

8. The notice dated 23rd February, 2011, issued by the NDMC is reproduced as under:

http://172.16.100.44:8180/property/... http://172.16.100.44:8180/property/... http://172.16.100.44:8180/property/m...

NDMC

PID/NO: P-1815

SAY NO TO PLASTIC BAGS

NEW DELHI MUNICIPAL COUNCIL

House Tax Department
9th Floor, Palika Kendra:Sansad Marg,
New Delhi

Regd.

Annex P-2
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P.O.R.No. Notice U/S 72/2010-2011/6771 1311 \HD(Tax)/ Date of Issue : 23/02/2011

To,
M/S HANSALAYA PROPERTIES
15 , B.K ROAD,NEW DELHI-110001

Copy To :

SUB : Notice U/S 72 of the NDMC Act, 1994.

This is to inform you that the assessment list for the year **2010-2011** is proposed to be amended as per details and reasons given hereunder and if you wish to file any objection in this connection, you may submit your objections in this office in writing so that is received in this office not later than 35 days from the date of receipt of this notice. If no objection is received within the aforesaid time, it shall be presumed that you have no objection to the proposed amendment.

Description of Land and Building	Name of the person primarily liable to pay the Property Tax	Existing Rateable Value	Provisionally Proposed Rateable Value	Proposed Effective Date
FLAT NO 3G & 3H AT 3RD FLOOR , HANSALAYA, NEW DELHI	M/S HANSALAYA PROPERTIES	Rs. 1944000/-	Rs.4050000/-	01/04/2010

2. As per provision of sub-section(1)and section-72 of the NDMC Act, 1994, you shall not be liable to pay any tax or increase in tax due to the amendment in the assessment list, for any period prior to the 1st day of the financial year in which this notice has been issued.

3. Since the liability for payment of taxes is joint and several, if there is any other owner of the property, you may kindly inform him also of this proposal so that his objection is also received within the aforesaid time.

4. The notice shall not be impeached or affected by reasons only of any mistake in the name of any person liable to pay the tax, or by reason only of clerical error or other defect of form.

5. This is the provisional proposed rateable value and not the anuual tax. The rateable value shall be finally fixed after receipt of the objections and investigation of the objections. It may be less or more than this provisionally proposed rateable value. The tax on the finally determined rateable value shall be payable as per tax rates ɟscribed by the council from year to year.

6. Reasons in brief for amendment in the Assessment List:

As per new annual rent bye laws, 2009.

7. ʃhe Chairperson authorised officer will consider your objections on ______________ at 10:00 A.M. You are also requested to appear on the said date and time in person or through authorised representative alongwith all supporting oral and/or documentary evidence.

If you need any additional information of details about the provisionally proposed rateable value or any help to file objections please contact this office with the time allowed for filling the objections.

IMPORTANT

This notice does not confer any legal title to the land and/for building in the name of the person to whom it is issued nor does it confer any right on any person to claim validation of unauthorized occupation of land or unauthorized construction at a later date.

~~S.O.(Tax)~~/D.D.(Tax)

http://172.16.100.44:8180/property/...

TRUE COPY

http://172.16.100.44:8180/property/m.

9. It is submitted that pursuant to the aforesaid notice, the petitioner filed objections to the same *vide* letter dated 21st March, 2011, followed by letter dated 28th March, 2011, which have been attached as *Annexure P-3* and *P-4* respectively, along with the present petition.

10. It is submitted that subsequently a letter dated 1st September, 2016 was received by the petitioner, wherein, the petitioner was called for hearing by the respondent.

11. The petitioner wrote a letter dated 6th September, 2016, seeking adjournment, on the ground that the petitioner was out of station for five days for some urgent work.

12. However, the respondent passed assessment order dated 14th September, 2016, in the following manner:

NEW DELHI MUNICIPAL COUNCIL
PALIKA KENDRA: NEW DELHI
PROPERTY TAX DEPARTMENT

Annex P-9
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No. T.I.-15/23617D.D. (Tax)/2016 Dated : 14-9-16

Premises No.	:	Flat No.3G & 3H at 3rd Floor, Hansalaya, New Delhi.
Name of the Owner	:	M/s Hansalaya Properties
Existing R.V.	:	1944000
PID No.	:	P-1815

ORDER U/S-72 OF THE NDMC ACT, 1994

A notice dated 23.02.2011 was given under section 72 of the NDMC Act 1994 with a proposal to revise RV of Rs.1944000/- to Rs.4050000/- w.e.f. 01.04.2010 as per New Annual Rent Bye Laws, 2009 of the NDMC Act, 1994, giving 35 days to file objections, if any, in this connection. The notice was given to the recorded owner.

As per record the tax payer has not submitted any objection to the proposed rateable value. In order to finalize the assessment, the case was fixed for hearing on 08.09.2016, neither any person appeared for hearing nor any request for adjournment received. The hearing letter was sent to M/s Hansalaya Properties at their last recorded correspondence address i.e. 15, Barakhamba Road, New Delhi by Registered Post. Under the circumstances, NDMC is left with no other alternative but to finalised the proposed RV of Rs.40,50,000/- w.e.f. 01.04.2010. Hence, as per notice U/S 72 of the NDMC Act, 1994, **the Rateable Value of Rs.40,50,000/- is fixed w.e.f. 01.04.2010.**

This decides notice dated 23.02.2011 given U/S 72 of the NDMC Act 1994.

Issue bill on the revised RV after giving adjustment of the payments received from the assessee.

(Pushkar Sharma)
Dy. Director (Tax)
Assessing Authority (Tax)

Copy to:-
1. The Assessee
2. A.O. (Tax)
3. D.D. (Tax)
4. Guard File

TRUE COPY

13. By referring to the aforesaid order, it is submitted that the said order wrongly notes that the petitioner had not filed any objections to the notice dated 23rd February, 2011. Whereas, fact of the matter is that the petitioner had duly filed the objections *vide* letter dated 21st March, 2011 and 28th March, 2011.

14. It is further submitted that the aforesaid order dated 14th September, 2016 passed by the respondent, wrongly notes that the petitioner has not appeared for hearing or requested for any adjournment. It is submitted that the petitioner by letter dated 6th September, 2016, had duly requested for an adjournment.

15. Thus, he submits that the aforesaid facts were completely ignored by

the respondent, at the time of passing the assessment order dated 14th September, 2016. He further submits that the assessment order dated 14th September, 2016 passed by the respondent-NDMC is not as per law, as the same is based on the Unit Area Method, which has already been set aside.

16. Thus, he submits that the very basis of issuing the notice of demand dated 12th December, 2024 and the warrant dated 12th March, 2025, are illegal.

17. Per contra, learned counsel appearing for respondent, on advance notice, submits that after the passing of the assessment order dated 14th September, 2016, the petitioner has not challenged the same by way of filing an appeal under Section 115 of the NDMC Act.

18. Learned counsel appearing for the respondent draws the attention of this Court to the demand notice dated 6th October, 2023 and the demand notice dated 12th December, 2024, to submit that despite the demand notices issued by the respondent – NDMC, the requisite amounts have not been paid by the petitioner.

19. Thus, he submits that accordingly warrant has rightly been issued by the respondent.

20. Responding to the same, learned counsel appearing for the petitioner submits that up to date property tax, as per the existing rateable value, as given in the notice dated 23rd February, 2011, has already been paid by the petitioner. He draws the attention of this Court to the various receipts, which have been attached along with the present petition.

21. Thus, he submits that no further dues are payable by the petitioner.

22. Having heard learned counsel appearing for the parties, this court is of the view that considering the submissions made before this Court, the

petitioner ought to file an appeal challenging the assessment order dated 14th September, 2016, which has admittedly, not been done by the petitioner.

23. At this stage, learned counsel appearing for the petitioner submits that he may be granted liberty to file appropriate appeal in terms of Section 115 of the NDMC Act.

24. Liberty is so granted.

25. Considering the submissions made before this court that the assessment order dated 14th September, 2016, is based on the Unit Area Method, which already stands set aside, only for the purposes of allowing the petitioner to file statutory appeal in terms of Section 115 of the NDMC Act, it is directed that for a period of four weeks, the impugned notice of demand dated 12th December, 2024, and warrant dated 12th March, 2025, shall remain suspended.

26. It is clarified that this court has not gone into the issue of the limitation, for the purposes of filing the appeal under Section 115 of the NDMC Act. These aspects shall be considered by the learned District Judge, as and when, such appeal is preferred by the petitioner.

27. It is further clarified that this court has not considered the case of the petitioner on merits or expressed any opinion, with regard thereto.

28. The case put up by the petitioner as regards the demand notice dated 12th December, 2024 as well as the warrant dated 12th March, 2025, shall be considered by appropriate authority, on its own merits.

29. With the aforesaid directions, the present petition, along with the pending applications, stands disposed of.

MINI PUSHKARNA, J

MARCH 19, 2025/ak