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

\+ W.P.(C) 5333/2025 & CM APPL. 24280/2025, CM APPL. 24281/2025

TRUPATI INFRA PROJECTS PVT LTD THROUGH THE RESOLUTION PROFESSIONAL .....Petitioner

Through: Ms. Bani Brar, Mr. Angad Mehta, Mr. Arsh, Mr. Karan Gandhi, Mr. Shikhar Tiwari and Ms. Vidhika Kapoor, Advocates
Mob: 9971080486

versus

MUNICIPAL CORPORATION OF DELHI .....Respondent

Through: Mr. Tushar Sannu, SC with Mr. Pravin Kr. Bansal, Advocate
Mob: 9911991166
Email: advtusharsannu@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

O R D E R

% **05.05.2025**

1. The present petition impugns the notices dated 20th August, 2024 and 9th October, 2024 issued by the respondent, whereby, the respondent has directed the petitioner to assess property tax for its property at *Plot No. D, District Centre, Outer Ring Road, Bhera Enclave Peeragarhi, Delhi-87*, by applying the Use Factor 8 instead of Use Factor 4.

2. Learned counsel appearing for the petitioner submits that the petitioner runs a 5-star hotel from the above-mentioned property in the name and style of ‘Radisson Blu’. It is submitted that the very issue with regard to

the property tax was also the subject matter of earlier writ petition, i.e., *W.P.(C) 1394/2011*, in which *vide* order dated 3rd March, 2011, this Court upon the undertaking of the petitioner therein, has directed that the said petitioner shall continue to deposit the property tax by applying multiplying factor of 4.

3. It is submitted that the said interim order dated 3rd March, 2011, passed in *W.P.(C) 1394/2011,* has been repeatedly extended by this Court.

4. Learned counsel appearing for the petitioner has relied upon the order dated 8th November, 2013, in *W.P.(C) 6654/2013*, wherein, it has held as follows:

> *"xxx xxx xxx*
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> *Counsel for the petitioner, inter alia, relies on the interim orders passed by this Court in Writ Petition No. 14853-55/2004 in **The Federation of Hotels and Restaurants Association of India and Ors. vs. Municipal Corporation of Delhi** dated 10.09.2004 wherein the same grievance had been raised and where the following orders were also passed;*
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> > *"Pending final adjudication in the writ petition, it is directed that the members of the petitioners association falling in 3 to 5 star hotels would continue to pay property tax on the existing rateable value. No coercive steps will be taken by the MCD to effect any recovery under the new dispensation for recovery of tax."*
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> *It is, inter alia, the case of the petitioner that the petitioner is also a member of the Association, having acquired the membership later on, and that the respondents are refusing the petitioner the benefit of the aforesaid interim orders passed on 10.09.2004 on the ground, inter alia, that the petitioner was not a member of the Association when the aforesaid order came to be passed.*
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> ***Counsel for the respondents has also brought to the notice of this Court a similar order passed by this Court in W.P.(C) No. 1394/2011 titled Eros Resorts and Hotels Ltd. and Anr. vs. MCD dated 3.3.2011 wherein the petitioners in that matter, have been permitted to pay property tax computed by multiplying factor of 4 till the final disposal of the matter. Counsel for the petitioner submits,***

on instructions, that the petitioner undertakes to pay the property tax in question computed by applying the multiplying factor of 4 if not already paid, and to continue to do so, pending the decision in the matter.

The said payment shall be made within four weeks from today, subject to the withdrawal of the attachment of the Bank account of the petitioner which had been so attached in terms of the impugned warrant of distress.

xxx xxx xxx"

(Emphasis Supplied)

5. Learned counsel appearing for the petitioner further submits that a moratorium is operating *qua* the petitioner herein. Thus, she submits that any notice issued by the respondent shall be in the teeth of Section 14 of the Insolvency & Bankruptcy Code, 2016 ("IBC"), which imposes a moratorium on the initiation and/or continuation of 'proceedings' against the Corporate Debtor, which in the present case is the petitioner. She relies upon the judgment dated 26th August, 2022, in the case of *Sundaresh Bhatt, Liquidator of ABG Shipyard Versus Central Board of Indirect Taxes and Customs, 2023 1 SCC 472*, and in particular relies upon paragraph numbers 3, 4, 44, 48 to 50 of the said judgment.

6. Learned counsel appearing for the petitioner submits that in terms of the previous orders passed by this Court, wherein, the petitioner herein has been allowed to deposit property tax on the basis of Use Factor 4, the petitioner shall continue to deposit property tax as per the Use Factor/Multiplying Factor 4.

7. *Per contra*, learned counsel appearing for the respondent-Municipal Corporation of Delhi ("MCD"), on advance notice, vehemently opposes the present writ petition.

8. He submits that the notices which have been challenged by the

petitioner herein, are only under Section 123D of the DMC Act, wherein, the petitioner has been directed to submit/upload certain documents, with regard to the property tax.

9. He further submits that the letter dated 9th October, 2024, issued by the MCD is only in the nature of communication to the petitioner directing the petitioner to revise the Property Tax Return ("PTR") in terms of Use Factor 8 for 5 Star Hotel in terms of recommendation of Municipal Valuation Committee ("MVC")- V.

10. Learned counsel for MCD further submits that no Assessment Order has been passed by the MCD till now and that the letter dated 9th October, 2024 was issued by the respondent-MCD, only as an abundant caution.

11. He further submits that the aforesaid judgment in the case of ***Sundaresh Bhatt (Supra),*** relied upon by the petitioner does not in any manner bar the respondent- MCD, from proceeding to assess the property in question.

12. In particular, he relies upon Para 57 of the aforesaid judgment, which states as under:

> *"xxx xxx xxx*
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> *57. On the basis of the above discussions, following are our conclusions:*
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> ***57.1. Once moratorium is imposed in terms of Sections 14 or 33(5) of the IBC as the case may be, the respondent authority only has a limited jurisdiction to assess/determine the quantum of customs duty and other levies. The respondent authority does not have the power to initiate recovery of dues by means of sale/confiscation, as provided under the Customs Act.***
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> ***57.2. After such assessment, the respondent authority has to submit its claims (concerning customs dues/operational debt) in terms of the procedure laid down, in strict compliance of the time periods prescribed under the IBC, before the adjudicating authority.***

57.3. In any case, the IRP/RP/liquidator can immediately secure goods from the respondent authority to be dealt with appropriately, in terms of the IBC.

xxx xxx xxx"

(Emphasis Supplied)

13. He further submits that whenever the MCD proceeds to finalize the Assessment Order, the petitioner shall be called for personal hearing and only after considering the reply and documents of the petitioner, an Assessment Order shall be passed.

14. He further submits that as of today, there is no coercive action being taken by the respondent-MCD, in the absence of any revised Assessment Order.

15. Learned counsel appearing for the respondent-MCD further submits that previous orders passed by this Court, as relied upon by the petitioner, shall not be applicable to the facts and circumstances of the present case. He submits that the earlier orders pertain to the issue of MVC I and III.

16. However, he submits that in the present case, the aforesaid notices have been issued by the MCD on the basis of MVC V.

17. He further submits that MVC V makes a categorical distinction between the 5-Star Hotels from other hotels of other categories.

18. Having heard learned counsels appearing for the parties, this Court takes note of the submission made by learned counsel appearing for the respondent-MCD that no fresh revised Assessment Order has been passed *qua* the property of the petitioner, till date.

19. This Court further takes note of the submission that no coercive actions are being taken against the petitioner for the time being, since there

is no fresh Assessment Order.

20. Accordingly, it is directed that no coercive action shall be taken against the petitioner by the respondent – MCD, till the issuance of revised Assessment Order.

21. It is further directed that at the time of revising the Assessment Order, the petitioner herein shall be called for a personal hearing. The revised Assessment Order shall be passed by the MCD, only after hearing the petitioner and only after considering the reply and documents submitted by the petitioner.

22. Accordingly, considering the aforesaid, no further orders are required to be passed in the present petition.

23. In view of the above, the present writ petition, along with the pending applications, is accordingly disposed of.

MINI PUSHKARNA, J

MAY 5, 2025/ak