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

\+ W.P.(C) 6513/2025 & CM APPL. 29668/2025

M/S GODFREY PHILLIPS INDIA LIMITED .....Petitioner

Through: Mr. B.B. Gupta, Sr. Adv. with Mr. Amitabh Marwah and Mr. Achal Gupta, Advs.
M: 9911116071
Email: amitabhmarwah@outlook.com

versus

NEW DELHI MUNICIPAL COUNCIL .....Respondent

Through: Ms. Sanjay Sharma, Addl. SC with Mr. Ravi Kumar, Ast. SC and Mr. Anand Kumar Sharma, Adv. for NDMC
M: 9810798828
Mr. Sanam Tripathi, Adv. for MCD
M: 9818352060
Email: sanamtripati.02@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

O R D E R

% **15.05.2025**

1. The present petition has been filed seeking quashing of the attachment and sealing of *Shop No. 15, Regal Building, Connaught Place, New Delhi*, which has been sealed by respondent.

2. Learned Senior Counsel appearing for the petitioner submits that the said shop has been sealed purportedly pursuant to an Assessment Order dated 07th December, 2016.

3. It is submitted that the said Assessment Order dated 07th December, 2016, was subject Matter of the order dated 21st March, 2017, passed by the

Division Bench of this Court *W.P.(C) 2392/2017*, titled as *M/s Godfrey Phillips India Limited Versus New Delhi Municipal Council & Ors.* It is submitted that the learned Division Bench granted liberty to the petitioner to approach the Appellate Authority under Section 115 of the New Delhi Municipal Council ("NDMC") Act, 1994 to challenge the said Assessment Order dated 07th December, 2016.

4. It is submitted that there were further directions to the respondent not to recover the balance tax, i.e., tax arrears for the assessment year 2007-08 onwards till the final disposal of the petitioner's appeal by the Appellate Authority.

5. Learned Senior Counsel appearing for the petitioner draws the attention of this Court to *Annexure-O* filed with the present petition, which is the earlier writ petition filed on behalf of the petitioner. The said earlier writ petition was filed by the petitioner with the following prayers:

> *"xxx xxx xxx*
>
> *a. issue a writ of Certiorari or any other appropriate writ order or direction under Article 226 of the Constitution of India **to call for the records and quash assessment order dated 07.12.2016** (ANNEXURE - 'A') and Calculation Sheet dated 07.12.2017 (ANNEXURE - 'B');*
>
> *xxx xxx xxx*
>
> *e. issue a writ of mandamus or any other appropriate writ order or direction under Article 226 of the Constitution of India directing the respondent no. 1 to effect mutation of Shop No. 15 in the name of the Petitioner and segregate Shop No. 15 from Shop No. 14 in the assessment list; and*
>
> *xxx xxx xxx"*
>
> *(Emphasis Supplied)*

6. It is submitted that the aforesaid writ petition had been filed challenging the Assessment Order dated 07th December, 2016, which had been issued by the respondent-NDMC for Shop No. 14 and 15, despite the

petitioner being the owner of Shop No. 15, only.

7. Attention of this Court is drawn to the order dated 21st March, 2017 passed in *W.P.(C) 2392/2017*, wherein, directions were passed by the learned Division Bench, in the following manner:

> *"xxx xxx xxx*
>
> *This Court has considered the submissions. It is quite evident that the impugned order casts heavy liability upon the petitioner. In that, revaluation of the fresh fixation of the rateable value was done over ten years. This has resulted in a large demand of ₹98,68,540/-.* ***The matter is further compounded in the circumstance that the petitioner is not the owner of the two premises - the subject matter of another assessment, i.e., shop nos.14 and 15; rather it only claims to occupy shop no.15. Having regard to these circumstances, the Court is of the opinion that the petitioner should be provided some relief whilst relegating it to the nominal alternative statutory remedy.***
>
> *In the circumstances, the petitioner is hereby required to deposit the tax for the first base year, i.e., 2006-07 provided that the breakup in respect of the liability for shop no.15 is given to it by the NDMC within two weeks from today. Upon receipt of such breakup, the tax arrears for the base year 2006-07 shall be deposited with the respondent within a week of intimation in that regard by the NDMC. The petitioner is also at liberty to approach the appellate Tribunal/ADJ empowered to hear appeals from orders of the AO. In case such an appeal is preferred within thirty days, the same shall be decided in accordance with law without reference to the limitation provided for appeals. At the same time, it is clarified that the Appellate Court/Tribunal should consider all contentions urged by the parties including the petitioner's objections to its liability, the procedure adopted in the finalisation of the assessment, etc.*
>
> *In the light of the above directions, learned counsel for the petitioner does not press the other reliefs sought.* ***The respondents are directed not to recover the balance (tax arrears for AY 2007-08 onwards) till final disposal of the petitioner's appeal by the Tribunal.***
>
> *In view of the above, learned counsel does not press the relief (C).*
>
> *The writ petition is disposed off in the above terms.*
>
> *Order dasti.*
>
> *xxx xxx xxx"*

(Emphasis Supplied)

8. Thus, it is submitted that liberty was granted to the petitioner herein to challenge the Assessment Order dated 07th December, 2016. Accordingly, an appeal was filed by petitioner herein, being *H.T.A. No. 42/2017*, titled as *M/s Godfrey Phillips India Limited Versus New Delhi Municipal Council.*

9. It is submitted that *vide* order dated 28th February, 2025, passed by the Court of District Judge-02, Patiala House Courts, New Delhi, the said appeal of the petitioner herein has been allowed and the Assessment Order dated 07th December, 2016, issued by the respondent-NDMC for Shop Nos. 14 and 15, has been quashed.

10. Learned Senior Counsel appearing for the petitioner submits the petitioner had purchased the property in the year 2012. Thus, *vide* letter dated 27th January, 2012, which is attached as *Annexure-E* to the present writ petition, the petitioner had duly informed the respondent-NDMC in terms of Section 74 of the NDMC Act, regarding purchase of the shop by the petitioner.

11. Attention of this Court has also been drawn to *Annexure-F* attached with the present writ petition, which is the letter dated 28th June, 2014, written by the petitioner for segregation of the property tax for Shop Nos. 14 and 15.

12. Learned Senior Counsel appearing for the petitioner submits that the petitioner had duly applied for mutation of the property. However, *vide* letter dated 10th July 2015, attached as *Annexure-I* to the present petition, the respondent-NDMC had raised certain objections with respect to certain formalities. He, thus, submits that the issue regarding mutation of the property in favour of the petitioner herein is still pending.

13. Learned Senior Counsel appearing for the petitioner submits that

since the petitioner was not carrying on business for the time being, the shop in question, i.e., Shop No. 15, was lying locked since August, 2024. However, when the petitioner visited his property recently, he saw that the property of the petitioner had been sealed by the respondent-NDMC and an Attachment Notice was pasted outside the shop of the petitioner, which is reproduced as under:

(Lily)

ANNEXURE – ` A'

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

Report of Attachment in R/o property Shop No. 14 & 15 Regal, New Delhi.

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In compliance of order Attachment u/s 102 of the NDMC Act-1994 vide No. D-3051/AO(Tax) dated 21.03.2025, the above cited property/premises was attached on 25.03.2025 in the presence of the representative /owner/occupier of the subject premises.

Representative/owner/occupier

Sd/-
Section officer (Tax)

TRUE TYPED COPY

14. Learned Senior Counsel appearing for the petitioner submits that despite the respondent-NDMC being aware of ownership of the petitioner herein, no intimation has ever been given to the petitioner before sealing the shop of the petitioner. He submits that despite various letters and

representations written by the petitioner to the respondent-NDMC, the property tax for Shop Nos. 14 and 15, has not been segregated and the assessment by the respondent-NDMC for property tax, has remained one for Shop Nos. 14 and 15.

15. Learned Senior Counsel appearing for the petitioner draws the attention of this Court to the letter dated 23rd January, 2017 written on behalf of the petitioner to the respondent-MCD, wherein, copy of the Assessment Order, if any, passed by the NDMC was requested to be supplied. However, it is submitted that no subsequent Assessment Order had been supplied to the petitioner pursuant to the letter dated 23rd January, 2017.

16. Learned Senior Counsel appearing for the petitioner relies upon Sections 72, 98, 99, 100, 102 and 103, as well as Schedules 6 and 7 of the NDMC Act, 1994.

17. By relying upon the aforesaid Sections and Schedules, learned Senior Counsel appearing for the petitioner submits that the NDMC was required to issue a notice of demand as well as raise a bill before taking any action against the petitioner. He further submits that the only power which is vested with the respondent NDMC for recovery of tax is as regards attachment and sale in terms of Section 102 of the NDMC Act. However, he submits that attachment of a property, does not amount sealing of the property, as has been done by the respondent-NDMC, in the present case.

18. Issue notice. Notice is accepted by learned counsel appearing for the respondent-NDMC.

19. Learned counsel appearing for respondent-NDMC vehemently opposes the submissions made by learned Senior Counsel appearing for the petitioner. He submits that the property in question has not as such been

sealed, but has been attached. He draws the attention of this Court to the attachment notice which has been attached as *Annexure-A,* along with the present writ petition.

20. He further submits that the shop in question, i.e., Shop No. 15 was purchased by the petitioner in the year 2012. However, the NDMC was informed about the said transfer only in the year 2014 *vide* letter dated 28th June, 2014. He relies upon Section 74 of the NDMC Act to submit that notice of transfer ought to have been given by the petitioner at the time of purchase of the property.

21. He further relies upon Section 74(4) of the NDMC Act to submit that even in case of sale of property, the property tax remains attached to the property, as property tax is a liability on the property itself.

22. He further draws the attention of this Court to the letter dated 10th July, 2015, written by the NDMC to the petitioner herein to complete the various formalities for the purposes of mutation of *Shop No. 15, Regal Building, Connaught Place, New Delhi*, in favour of the petitioner. He submits that despite the aforesaid letter by the respondent-NDMC, the requisite formalities have not been completed by the petitioner, on account of which, the mutation of the property has still not been carried out in favour of the petitioner.

23. He further submits that though the Assessment Order dated 07th December, 2016 has now been quashed, however, the said Assessment Order only pertained to the period prior to the year 2018. He submits that the NDMC shall now proceed to pass a fresh Assessment Order, with respect thereto.

24. Learned counsel appearing for the respondent-NDMC has further

handed over copy of an Assessment Order dated 31st January, 2023 for the assessment year 2018-19 to 2022-23, passed by the NDMC under Section 72 of the NDMC Act, which is reproduced as under:

25. By referring to the aforesaid Assessment Order, learned counsel appearing for the NDMC submits that the aforesaid fresh Assessment Order dated 31st January, 2023, pertains to the period subsequent to the year 2018

and is a separate Assessment Order, which has no connection with the earlier Assessment Order dated 07th December, 2016. He further submits that since the recorded owner of Shop No. 15 is still the original owner, in the absence of any mutation in favour of the petitioner, the notices for demand with respect to the fresh Assessment Order dated 31st January, 2023, were issued to the original owner.

26. He, thus, submits that due procedure was followed by the NDMC before action was taken by the NDMC for attachment of the shop in question. He further submits that the Assessment Order dated 31st January, 2023, has become final since the same has not been challenged.

27. Responding to the aforesaid submissions made by learned counsel appearing for the respondent-NDMC, learned Senior Counsel appearing for the petitioner submits that the petitioner has always been vigilant and at the time of purchase of the property in question, he had duly written a letter dated 27th January, 2012, attached as *Annexure-E*, to the present writ petition, wherein, the petitioner had clearly requested as regards any dues which were payable with respect to the property in question.

28. He submits that this was followed by a formal application dated 28th June, 2014, wherein, the petitioner had prayed for segregation of the property tax of Shop Nos. 14 and 15, which has still not been done.

29. He further submits that pursuant to the receipt of the letter from the NDMC, the formalities with regard to the mutation of the property in favour of the petitioner, were complied with. He draws the attention of this Court to the letter dated 23rd July, 2015, attached as *Annexure-J* to the present writ petition. He submits that all the documents, as demanded by the NDMC, have already been deposited with the NDMC. He submits that the only issue

which remained was with regard to the payment of the property tax, as the said issue, had still not become final.

30. Having heard learned counsels for the parties, this Court notes that the fresh Assessment Order dated 31st January, 2023, passed by the NDMC has been delivered to the original owners of the property in question, as per the submissions made by learned counsel appearing for the NDMC. The said Assessment Order dated 31st January, 2023, has been handed over to the learned Senior Counsel appearing for the petitioner, only today.

31. This Court further records the statement of learned counsel appearing for the respondent-NDMC that in terms of the fresh Assessment Order dated 31st January, 2023, the combined property tax demand for Shop Nos. 14 and 15, is Rs. 64,51,260/-.

32. Accordingly, in order to balance the equities, it is directed that the petitioner shall deposit an amount of Rs. 30 Lacs on account of property tax payable in terms of the fresh Assessment Order dated 31st January, 2023. The said amount shall be deposited by the petitioner without prejudice to his rights and contentions, within a period of three working days, from today.

33. Upon the petitioner depositing the amount of Rs. 30 Lacs with the respondent-NDMC, the respondent-NDMC shall forthwith take steps for de-sealing/de-attachment of the *Shop No. 15, Regal Building, Connaught Place, New Delhi*.

34. Liberty is granted to the petitioner to challenge the Assessment Order dated 31st January, 2023, in accordance with law.

35. Since the said Assessment Order dated 31st January, 2023 has been handed over to the petitioner only today, it is clarified that the issue of limitation, shall not come in the way of the petitioner, as and when the

petitioner files an appeal challenging the said Assessment Order dated 31st January, 2023.

36. This Court further takes note of the submission made by learned Senior Counsel appearing for the petitioner that the related documents with regard to the Assessment Order dated 31st January, 2023, are not in possession of the petitioner.

37. Accordingly, learned counsel appearing for the respondent-NDMC is directed to provide the requisite documents pertaining to the Assessment Order dated 31st January, 2023, to learned counsel appearing for the petitioner on the E-mail, which is reflected in today's order.

38. Let the needful be done by learned counsel appearing for the respondent-NDMC, within a period of ten days, from today.

39. Upon receipt of the related documents pertaining to the Assessment Order dated 31st January, 2023, liberty is granted to the petitioner to challenge the said Assessment Order dated 31st January, 2023, within a period of four weeks from receipt of the related documents.

40. It is clarified that deposit of Rs. 30 Lacs by the petitioner with the respondent-NDMC, shall be considered as deposit of property tax for the base year by the petitioner, for the purposes of the appeal before the Appropriate Authority.

41. With the aforesaid directions, the present petition, along with the pending application, stands disposed of.

MINI PUSHKARNA, J

MAY 15, 2025/kr