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

\+ W.P.(C) 14407/2023

SAURABH KUMAR GARG & ANR. .....Petitioners

Through: Mr. Jitendra Kumar Singh, Ms.Harshita Singh, Ms. Anjali Kumari, and Ms.Shivpriya, Advocates.

versus

THE COMMISSIONER OF MCD & ORS. .....Respondents

Through: Mr. Tushar Sannu, Advocate.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

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

% **24.02.2025**

<u>CM APPL. 57089/2023</u>

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

<u>W.P.(C) 14407/2023 and CM APPL. 57088/2023</u>

3. This writ petition is preferred on behalf of Petitioners under Articles 226/227 of Constitution of India seeking the following reliefs:

> *"A. Quash and set aside the Assessment order dated 17-07-2023 by the Jt. Assessor & Collector (HQ)-I& demand Notice dt 01-08-2023.*
>
> *B. Quash and set aside the Revised Assessment order dated 11-10-2023 passed by the Asstt. Assessor & Collector (HQ)/C-5.*
>
> *C. Direct to re-access the property tax in view of facts and circumstances and submissions made herein above."*

4. By this writ petition, Petitioners have assailed an Assessment Order dated 17.07.2023 read with revised order dated 11.10.2023 passed by MCD in respect of property being Unit No. 101, First Floor, RG Square Mall, Plot No. 02, IP Extension, Delhi. By the impugned order dated 17.07.2023, MCD computed the assessable value of the property and raised a demand dated 01.08.2023 claiming arrears in the sum of Rs.24,00,392/-. By the second

impugned order, the demand was re-computed at Rs.23,03,807/- upto the year 2024. On 06.11.2023, while issuing notice in the writ petition, Court had passed an interim order directing that subject to Petitioners' depositing sum of Rs.15,05,049/- with MCD within four weeks, no coercive action will be taken and Petitioners will also continue to pay property tax for subsequent years at annual value assessed by MCD, which was reduced to Rs.2,18,128/-.

5. Learned counsel for the Petitioners fairly submits that this writ petition was filed when the Municipal Taxation Tribunal ('MTT') was not functional, however, since the MTT is now functional, Petitioners may be permitted to withdraw this writ petition with liberty to approach the MTT but the interim order be continued as Petitioners have abided by the direction of deposit of the money and are also regularly paying the property tax for the subsequent years.

6. Mr. Sannu, learned counsel for MCD has no objection to the Petitioners approaching the MTT to assail the assessment and revised assessment orders, however, he objects to the interim order being continued.

7. Having heard learned counsels for the parties, this Court finds no impediment in permitting the Petitioners to withdraw the writ petition to file an appeal before the MTT, which is the correct course of action now that the MTT is admittedly functional. Insofar as the interim order is concerned, the same has been in operation since 06.11.2023 and once the Petitioners have complied with their part of the obligation and deposited a sum of Rs.15,05,049/-, as directed by the Court and are also continuing to pay property tax, this Court finds no reason to vacate the interim order at this stage when the rights of the parties are yet to be adjudicated.

8. Accordingly, this writ petition is disposed of permitting the Petitioners to approach the MTT. In case the Petitioners file the appeal within four weeks from today, interim order dated 06.11.2023 shall continue to operate. While considering the application for condonation of delay in filing the appeal, learned Tribunal shall take into consideration that this writ petition was filed by the Petitioners *bona fidely* in November, 2023 before this Court since the MTT was not functional and has been pending since then.

9. Pending application stands disposed of.

JYOTI SINGH, J

FEBRUARY 24, 2025
B.S. Rohella/shivam