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

+ W.P.(C) 7389/2022 & CM APPL. 22613/2022

VIJAY NARAIN SETH & ANR.

.....Petitioners

Through: Mr. Amardeep Singh, Mr. Zuhaib
Mansoori, Advocates along with
petitioners in person (M:9811111144)

versus

NEW DELHI MUNICIPAL COUNCIL

.....Respondent

Through: Mr. Ashish Tiwari, Mr. Akshay
Verma, ASC-NDMC, Mr. Sahib
Patel, Advocate (M: 9971382986)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

17.03.2025

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1. The present petition has been filed seeking to quash the demand of the property tax and recovery notices dated 28th January, 2021 and 04th March, 2021, issued by the New Delhi Municipal Council ("NDMC").
2. Learned counsel for the petitioners submits that the demand and recovery notices issued by the NDMC are purportedly based on Unit Area Method/ NDMC (Determination of Annual Rent) Bye Laws 2009 ("2009 Bye Laws"), which has since been declared as *ultra vires* by the Division Bench of this Court and upheld by the Hon'ble Supreme Court.
3. Thus, it is the case of the petitioners that the demand for property tax on the basis of Unit Area Method, as raised by NDMC, is not as per law.
4. Per contra, learned counsel for NDMC draws the attention of this Court to the property tax paid by the petitioners, as per the table given in the



reply, which is reproduced as under:

Receipt No.	Receipt Date	Receipt Amount
9255	14.03.2008	7,260/-
34744	31.03.2010	7,260/-
44856	27.01.2011	7,260/-
51611	19.12.2011	7,260/-
64490	11.10.2012	7,260/-
81059	28.04.2014	7,260/-
99612	29.09.2015	7,260/-
130057	23.01.2017	14,520/-
163697	05.02.2019	7,260/-
176314	07.08.2020	7,260/-
181090	09.12.2020	7,260/-
182713	19.12.2020	7,260/-

5. By referring to the aforesaid table, learned counsel for NDMC submits that property tax being paid by the petitioners cannot be said to be deposited under the Rateable Value, since the said deposited amount, is not proper, even as per the Rateable Value.

6. By referring to the aforesaid table, it is the case of the respondent-NDMC that huge dues to the tune of ₹ 1,59,98,382/-, are due and payable by the petitioners till 31st March, 2022. Learned counsel for the respondent submits that the demand for property tax, on the basis of Unit Area Method, is as per the judgment of the Supreme Court and is valid.

7. However, the said statement is disputed by learned counsel for the petitioners. It is the case of the petitioners that the petitioners have never paid any property tax under the Unit Area Method, and have only paid under the Rateable Value.

8. Therefore, he submits that the Supreme Court judgment would not be applicable to the facts and circumstances of the present case, for payment



under the Unit Area Method.

9. Learned counsel for the petitioners submits that the petitioners have already paid the property tax under the Rateable Value. He further draws the attention of this Court to the bill raised by the NDMC towards the property tax, which is reproduced as under:

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(copy)

PID No. 6014 **PAY TAX IN TIME - SAVE 20% PENALTY**
Property Tax Bill for 2002-2003

Always quote PID No. **PAY BY DATE 24/03/2003**

NEW DELHI MUNICIPAL COUNCIL.
Property Tax Department
Tax Recovery Cell
18th Floor - Palka Centre,
Sansad Marg, New Delhi-110 001.

BILL No. 10011
Date: 03/09/2002
Sect No. 31-1(1/11) = 97
D & C No. 12
Demand No. 7

Particulars of Premises to which this bill relates
DR. BHASKAR JANTA MANSION ROAD

Rateable Value
36300

Name and Address of Owner
**DR. VIKAS BHASKAR SETH,
VIKASGIRI, KANUNJI SETH,
SMT. KANAK DEVI SETH,
C/O. KANAK SETH JAGAT
BHASKAR
CHANDNI MARKET, DELHI-
110006**

IMPORTANT - HAVE PROPERTY MUTATED AND PAY TAX IN YOUR NAME. REMISSION OF INTEREST ONLY AFTER NOTICE BY VACANCY AND POSSESSION. GIVE NOTICE WITHIN 15 DAYS OF VACANCY AND POSSESSION. NOTICE IS BARE MIN. YOUR RESPONSIBILITY.

DETAILS OF PROPERTY TAX

	Property Tax	Penalty/NF	Transfer Duty
A. PROPERTY TAX DUE			
(a) For the year 2002-2003	7260		
(b) as additional demand raised in 2002-2003	0	0	
(c) Total (a) + (b)	7260	0	
B. AMOUNT FOR WHICH BILLS ISSUED UPTO 31-03-2002 & NOT FORWARDED PART OF THIS BILL.	76450	37	

IMPORTANT For collection, the owner or the person in charge of the premises should be present at the office of the Tax Collector (TC) between 9 AM to 5 PM on working days.

1. Public notice and the demand notice is issued on the basis of assessment for the year 2002-2003.
2. If the rateable value on which this bill is based has been revised by a Court, pending appeal, the rateable value, pay tax on the revised rateable value and if no pending appeal, the rateable value, pay tax on the revised rateable value. No objection, appeal with pending appeal, rateable value, pay tax on the revised rateable value.
3. Demand notice may be issued as the bill shall be payable after deduction of the amount by the owner.
4. Where the rateable value has been reduced in the year and the owner has not yet been granted a remission of interest in writing, the owner shall pay the amount of interest as required under Section 112 of the DMC Act within 15 days of receipt of the demand notice. The interest on the amount of interest shall be paid by the owner.
5. Where this bill is issued by the person who is not the owner, the person, shall pay the amount of interest on the basis of the amount on the basis of the demand notice and the person shall pay the amount of interest on the basis of the demand notice.
6. Where the demand notice is issued by the person who is not the owner, the person shall pay the amount of interest on the basis of the demand notice.
7. Where the demand notice is issued by the person who is not the owner, the person shall pay the amount of interest on the basis of the demand notice.
8. Special notice for collection of tax from the premises of the owner, the owner and the person who is not the owner, shall be issued by the person who is not the owner.

FOR OTHER DETAILS OF RATE OF TAX, REFUND & DISCOUNT PLEASE SEE ON BACK PAGE.

PAYMENT REQUIRED BY DATE 24/03/2003. NOT FORWARDED.

PID No. **Counter Foil of Property Tax Bill for 2002-2003**

DR. BHASKAR
D & C No. 10011
Date: 03/09/2002
Sect No. 31-1(1/11) = 97
D & C No. 12
Demand No. 7

DR. BHASKAR JANTA MANSION ROAD

TRUE COPY

10. This Court notes that statutory appeal under Section 115 of the New Delhi Municipal Council Act, 1994, is available as an alternate remedy to



the petitioner for challenging the levy or assessment of any tax under the said tax.

11. As the present petition has been pending before this Court, since the year 2022, petitioners are at liberty to file the record of this Court before the learned District Judge, before whom the appeal shall be filed, for the purposes of making his submissions before the said Authority.

12. Accordingly, considering the facts and circumstances of the present case, the petitioners are directed to file appeal, as per law.

13. Let the needful be done by the petitioners within an outer limit of four weeks from today.

14. This Court notes that *vide* order dated 12th May, 2022, this Court had noted the statement on behalf of the respondents as follows:

“xxx xxx xxx

3. Mr. Akshay Verma, learned ASC for the respondent, accepts notice and has disputed the submissions made on behalf of the petitioners. He, however, seeks some time to take instructions and to file Reply. Learned ASC also fairly submits that no precipitate action would be taken against the present petitioners in pursuance of the recovery notices issued on 28.01.2021 and 04.03.2021 till the next date of hearing.

xxx xxx xxx”

15. Accordingly, it is directed that the aforesaid statement made on behalf of the respondent-NDMC, shall continue during the pendency of the appeal before the learned District Judge.

16. In view of the aforesaid, the present writ petition, along with pending application, stands disposed of.

MINI PUSHKARNA, J

MARCH 17, 2025/au