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

% ***Judgment reserved on: 15.10.2026***
Judgment pronounced on: 28.10.2026
Judgment uploaded on: 28.10.2026

\# **CNR No. DLHC010156382024**

\+ W.P.(C) 4427/2024, CM APPL. 18071/2024 and CM APPL. 26446/2025

GURVINDER SALUJA .....Petitioner

Through: Mr. M. A. Niyazi, Sr. Adv. along with Ms. Anamika Ghai Niyazi and Ms. Kirti Bhardwaj, Advs.

versus

NEW DELHI MUNICIPAL COUNCIL .....Respondent

Through: Mr. Sanjay Sharma, ASC.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE BHARAT PARASHAR

J U D G M E N T

ANIL KSHETARPAL, J.:

1. In September 2023, the Respondent, New Delhi Municipal Council ('NDMC'), issued a notice under Section 72 of the New Delhi Municipal Council Act, 1994 ('the Act'), proposing to enhance the rateable value, *i.e.*, the valuation used to calculate property tax, of the Petitioner's premises at Khan Market, New Delhi with effect from 01.04.2023.

2. Three months later, in deciding that Notice, NDMC fixed revised rateable values reaching back to July 2012. The Petitioner contends that the proviso to Section 72 bars any such retrospective

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enhancement. NDMC relies on an earlier assessment order and submits that the Petitioner should pursue the statutory appeal. The threshold question is whether the challenges raised by the Petitioner should be adjudicated in this writ petition or examined through that remedy.

3. Through the present Petition, the Petitioner initially challenged the constitutional validity of the expression 'at any time' in Section 72. Prayer (a) was not pressed and stood disposed of by the order dated 06.10.2026. In paragraph 9 of his written arguments, the Petitioner has likewise given up Prayer (c), which challenged an earlier assessment dated 10.01.2017. Prayer (c) is disposed of accordingly, though without any finding that the 2017 assessment stood modified or superseded. What remains is the challenge to the subsequent assessment and tax demands, alongside the prayer for a broader inquiry into allegedly arbitrary assessments across Khan Market.

FACTUAL MATRIX

4. The property in question is Shop No. 61, Khan Market, New Delhi. The Petitioner claims ownership through his late father, in whose name the municipal assessment continues. The shop is occupied by M/s Sai Gadgets Shop Private Limited, a company in which the Petitioner is a director. While the Petitioner treats this as self-occupation, NDMC treats occupation by the corporate entity as distinct from occupation by the individual owner.

5. By Notice dated 26.09.2023 under Section 72, NDMC proposed

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to raise the existing rateable value of the shop from ₹1,62,400/- to ₹1,42,91,100/- with effect from 01.04.2023. The proposed value was based on the reasonably expected annual rent of the shop, compared with the rent of Shop No. 19-B, Khan Market. The Notice states that the proposed amendment would not create any increased liability for a period prior to the financial year in which the notice was issued.

6. The resulting Assessment Order dated 20.12.2023 adjudicates that September 2023 Notice. After recording that no one appeared at the hearings on 08.11.2023 and 12.12.2023, the Order acknowledges the Petitioner's emailed written submissions. It then takes the date of the company's incorporation, 25.07.2012, as its starting point, fixing the rateable value at ₹62,10,000/- from that date with successive 15% enhancements from 25.07.2015, 25.07.2018, and 25.07.2021. From 01.04.2023 onwards, it fixes the rateable value at ₹1,42,91,100/- by applying the rental rate of Shop No. 19-B, Khan Market to the area attributed to the Petitioner's shop, and directs that a bill be raised on these revised values.

7. During the hearing before this Court on 13.10.2026, NDMC produced an earlier Assessment Order dated 26.05.2022, which was handed over to the learned senior counsel representing the Petitioner and time was granted to examine it. That May 2022 Order refers to an older Notice dated 31.03.2013 and purports to fix the rateable value at the same figure of ₹62,10,000/- with effect from 01.04.2012. The Petitioner disputes its communication and continuing effect. He contends that the subsequent finalisation of property tax returns displaced that assessment, and also questions its lawfulness on

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grounds of delay and the protection claimed for earlier assessments.

8. The portal extracts relied upon by the Petitioner record entries attributed to decisions dated 29.09.2022. Those entries show a rateable value of ₹62,10,000/- from 01.04.2012 and ₹1,62,400/- from 01.04.2013 and specified subsequent dates. How the May 2022 Assessment Order, the September 2022 portal entries and the December 2023 Assessment Order fit together lies at the heart of the factual dispute between the parties.

9. An earlier Notice dated 05.01.2023 demanded ₹19,79,170/-. After the December 2023 Assessment, NDMC issued a bill dated 09.01.2024 for ₹2,66,27,563/-, of which ₹2,51,86,094/- was shown as an 'Additional Demand'. A Demand Notice for ₹2,66,27,580/- followed on 01.02.2024, and on 18.03.2024 NDMC called upon the Petitioner to make payment, failing which coercive recovery was threatened. The Petitioner impugns each of these instruments.

10. On 22.03.2024, this Court stayed further coercive recovery on the condition that the Petitioner deposit ₹19,79,170/- within two weeks. The Petitioner states that this amount has been deposited. Alongside the legality of the assessments, the Petitioner challenges NDMC's failure to explain how the additional demand was computed and how his prior payments have been accounted for.

CONTENTIONS

11. Mr. M. A. Niyazi, learned Senior Counsel appearing for the Petitioner contends that the September 2023 Notice could not lawfully support an enhancement for prior years. On the retrospective periods,

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he relies on the proviso to Section 72, the decisions concerning delayed assessments, and Paragraph 89 of ***NDMC v. Association of Concerned Citizens of New Delhi***[1], concerning the protection afforded to certain assessments made under the 2009 Bye-laws. On the prospective valuation from 01.04.2023, he faults the comparison with Shop No. 19-B, whose recorded rateable value is stated to be ₹79,70,400/-. He also submits that the Petitioner was denied an effective hearing and that the defect in the assessment cannot be cured by an arithmetical rectification. The Petitioner accordingly seeks quashing of the impugned order or, alternatively, a fresh hearing on his objections. He also invokes Section 64H(3), inserted by the Jan Vishwas (Amendment of Provisions) Act, 2026 ('the 2026 Amendment Act').

12. The Respondent submits that the Petitioner's remedy lies in a statutory Appeal under Section 115. It questions the Petitioner's standing in view of the municipal ownership entries, defends the valuation on the basis of reasonably expected annual rent, and disputes the comparability of the properties cited by the Petitioner. The Respondent relies on the hearing dates recorded in the assessment order and the consideration of the Petitioner's emailed submissions. For the earlier periods, it relies on the Assessment Order dated 26.05.2022 produced during the hearing.

ANALYSIS AND FINDINGS

13. Section 115 of the Act provides a comprehensive appellate remedy before the District Judge against any levy or assessment of

[1](2019) 15 SCC 303

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tax, encompassing both factual valuation and legality, with power under Section 115(2) to refer questions of law to this Court. Sections 116 and 117 govern the conditions of appeal and the condonation of delay upon showing sufficient cause.

14. The availability of a statutory appeal does not oust this Court's jurisdiction under Article 226. Ordinarily, the statutory remedy should be pursued, but the Court may intervene in recognised exceptional circumstances, including where the order is wholly without jurisdiction or natural justice has been denied. These principles are explained in ***Radha Krishan Industries v. State of Himachal Pradesh***[2]. The withdrawal of the constitutional challenge does not therefore dispose of the surviving grounds. Their nature and the relief required must be considered in deciding whether this Court should exercise its writ jurisdiction.

15. At the forefront is the Petitioner's objection under Section 72, which goes to statutory reach. The proviso to Section 72(1), as it stood at the relevant time, reads as under:

> *"Provided that no person shall by reason of any such amendment become liable to pay any tax or increase of tax in respect of any period prior to the commencement of the year in which the notice under sub-section (2) is given."*

Section 72(2) required notice of the proposed amendment and consideration of objections. Under the proviso, the Court must distinguish between tax or an increase of tax arising by reason of the impugned amendment and liability resting on an independently operative earlier assessment.

[2](2021) 6 SCC 771

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16. The dates specified in the 2023 Notice and the resulting Assessment Order are plain on the face of those instruments. The Assessment Order does not state that its historical entries are mere illustrations without effect on liability. The Petitioner's temporal objection cannot, therefore, be brushed aside simply by labelling the dispute one of valuation. At the same time, the May 2022 Order purports to fix the rateable value at ₹62,10,000/- with effect from 01.04.2012. Whether that Order remained operative, and for which periods, must be examined alongside the September 2022 portal entries and the December 2023 assessment. Neither the production of the May 2022 Order nor the subsequent entry of a lower rateable value resolves that question without examining the underlying municipal records.

17. The existence of an earlier assessment cannot enlarge the temporal scope of the amendment proposed in September 2023. It may, however, bear upon whether a component of the demand rests on an independent prior assessment. NDMC has not supplied a period-wise statement identifying which assessment supports each component of the demand. The record before this Court therefore does not permit a reliable determination of which components arose by reason of the December 2023 amendment and which, if any, have an independent basis. That inquiry is bound up with the disputed effect of the September 2022 entries, the claimed protection of earlier assessments, the prospective valuation, and the accounting of past payments.

18. In these circumstances, these connected questions are best

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examined together in a statutory appeal, and this Court declines to adjudicate the surviving challenges under Article 226. No opinion is expressed on the validity, service, or continuing effect of the order dated 26.05.2022.

19. The additional demand nevertheless requires disclosure. Paragraph 12 of the counter-affidavit states its amount but does not provide a period-wise derivation. The bill does not explain which assessments support the components of ₹2,51,86,094/-, how earlier charges have been treated, or how payments have been credited. The Petitioner must have that information and the supporting orders to pursue an effective challenge. Furnishing a calculation statement will not cure any defect in the underlying assessment or determine the objections to it.

20. Section 4 of the 2026 Amendment Act preserves remedies and proceedings concerning past acts and accrued liabilities. The statutory appeal concerning these assessments remains available, subject to questions of limitation and the directions below.

21. Nothing in this judgment shall preclude the Petitioner from invoking Section 64H(3), if otherwise available to him. Any such application shall be considered independently by NDMC in accordance with the conditions prescribed thereunder.

22. Prayer (b) seeks an inquiry into assessments of other Khan Market properties. The Petitioner may rely on relevant comparative material in support of his individual challenge before the statutory forum. A market-wide inquiry is not necessary for that adjudication,

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and this Court declines to direct one in this petition. This does not determine the lawfulness of the assessments of other properties or reject the Petitioner's grounds concerning his own assessment.

FINAL ORDER

23. The Petitioner is accordingly relegated to the statutory appellate remedy in respect of the surviving challenges, subject to the following directions:

i. Within fifteen days of receiving a copy of this judgment, NDMC shall serve upon the Petitioner, through counsel, a period-wise computation of the impugned demand, including the additional demand of ₹2,51,86,094/-. For each period, the statement shall specify the operative assessment order, rateable value, tax rate, tax previously billed, additional tax, other charges, payments and credits, and the resulting net balance. It shall reconcile the Demand Notice dated 05.01.2023 with the subsequent bill and recovery notices, verifying and crediting without duplication all payments actually made, whether voluntarily or under orders of this Court.

ii. Along with that computation, NDMC shall furnish legible copies of every assessment order and notice relied upon to sustain each component of the demand, including the assessment order dated 26.05.2022 and the orders or decisions underlying the portal entries dated 29.09.2022. If any such record is unavailable, NDMC shall state that fact in its communication. Any request for

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further record production shall be addressed to the appellate Court.

iii. If the Petitioner institutes an appeal concerning the surviving challenges within four weeks of service of the computation and documents directed above, the appellate Court shall not reject it on the ground of limitation insofar as the delay is attributable to the pendency of this writ petition or to the interval between its disposal and expiry of that four-week period. Any delay preceding institution of this writ petition shall be considered independently under Section 117 in accordance with law. The Petitioner is also at liberty to pursue such remedies against the assessment order dated 26.05.2022 as are available in law. This Court records no finding on its service, finality or the limitation applicable to such a challenge.

iv. The appellate Court shall consider the statutory deposit requirement in accordance with law, including the principles discussed by this Court in ***Ved Marwah v. NDMC***[3]. It shall take into account all amounts actually deposited with NDMC towards the disputed liability, including any amount deposited pursuant to the interim order dated 22.03.2024. This judgment does not dispense with the applicable statutory deposit requirement.

v. Subject to the Petitioner having complied with the deposit condition imposed on 22.03.2024, NDMC shall take no coercive recovery steps pursuant to the impugned demands and notices until four weeks after service of the computation and

[3]2018:DHC:2055-DB

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documents directed in clauses (a) and (b). If the Petitioner files an appeal along with an application for interim relief within those four weeks, this protection shall continue until the appellate Court disposes of the interim application or the appeal itself, whichever is earlier. The appellate Court may modify or vacate this protection in accordance with law and is requested to take up the preliminary and interim applications expeditiously.

24. Subject to the directions above, all contentions concerning the legality, temporal operation and quantum of the surviving assessments and demands, the protection claimed for earlier assessments, and the parties' objections to maintainability remain open before the appropriate forum. Neither the *prima facie* observations recorded during the pendency of this petition nor anything stated in this judgment shall be construed as affirming the impugned assessments or demands.

25. The present Writ Petition, along with pending applications, stands disposed of in the above terms.

ANIL KSHETARPAL, J.

BHARAT PARASHAR, J.

OCTOBER 28, 2026
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