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

% *Date of decision: 8th July, 2026*

\+ **W.P.(C) 13292/2022, CM APPL. 40297/2022 & CM APPL. 25096/2025**

MUNICIPAL CORPORATION OF DELHI .....Petitioner

Through: Ms. Madhu Tewatia and Mr. Adhirath Singh, Advocates.

versus

RITES LIMITED .....Respondent

Through: Mr. Vardhman Kaushik and Mr. Vibhav V. Nath, Advocates *(through VC)*.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present writ petition has been filed by MCD seeking setting aside of the impugned orders passed by the Municipal Taxation Tribunal (hereinafter referred to as '*MTT*') on 22nd July, 2019 and 3rd February, 2021.

2. Brief facts relevant for deciding the present writ petition are as follows:

i. The assessment in the present case pertains to the flats of the respondent, RITES Ltd. (hereinafter 'RITES') at Ashok Vihar, Delhi.

ii. The assessment years involved are 2004-05 to 2017-18.

iii. A notice under Section 123D of the Delhi Municipal Corporation Act, 1957 (hereinafter 'DMC Act') was issued by MCD to RITES on 10th May, 2018 for non-submission of details of the property and called upon RITES to provide details of the property with documentary proof.

iv. On 12th July, 2018, the Assessing Authority held that vacant land tax was payable under the provisions of the DMC Act and a demand for a sum of Rs. 47,42,698/- was raised for the period 2004-05 to 2017-18, after adjusting the payments already made by RITES.

v. In response to the abovesaid demand, RITES informed the department that the total ground coverage is 3110 sq. mtr including stilt parking area. The stand of the corporation was that stilt parking area would not be included in the covered area and hence, vacant land tax would be payable upon the same.

vi. On account of non-payment of outstanding dues of Rs.47,42,698/-, a show cause notice dated 12th December, 2018 was issued under Section 152A of the DMC Act, followed by a Warrant of Distress under Section 156A of the DMC Act on 27th December, 2018. Aggrieved by the same, appeals were filed by RITES before the Municipal Tax Tribunal (hereinafter 'MTT').

3. *Vide* impugned order dated 22nd July, 2019, MTT held that the stilt parking falls within the definition of 'covered area', and that the covered area on the ground floor would exceed 25% of the total plot area. Therefore, vacant tax could not be levied. Further, the show cause notice dated 12th December, 2018 was set aside and MCD was directed to pass a fresh assessment order holding that vacant land tax was not payable. The Assessing Authority was also directed to keep in mind the judgment of this Court dated 22nd March, 2018 in W.P. (C) 3946 of 2011, titled '***Seth Pokharmal Education Society* v. *MCD & Ors.***' and refund the excess amount of tax, if any, paid by RITES.

4. A review petition against the order dated 22nd July, 2019, was filed by MCD, which was dismissed by the MTT *vide* order dated 20th February, 2020.

5. On 10th September, 2020, a fresh assessment order was passed by MCD on the basis of documents and information provided by RITES.

6. It is contended on behalf of MCD that on scrutiny of information provided by RITES, it was found that the RITES had concealed that certain parts of the property were put to non-residential use, resulting in higher annual value and therefore, a higher quantum of tax was payable.

7. Accordingly, the annual value of the property was fixed at Rs.48,64,228/- with effect from 1st April, 2024; Rs.41,19,077/- as residential and Rs.7,45,151/- as non-residential.

8. Aggrieved by the same, RITES filed an application in execution proceedings of the order dated 22nd July, 2019 before the MTT stating that the impugned assessment order did not deal with judgment in ***Seth Pokharmal*** (supra).

9. The MTT *vide* impugned order dated 3rd February, 2021 held that the assessment order was time barred in light of the judgment in ***Seth Pokharmal*** (supra).

10. Aggrieved by the aforesaid orders passed by MTT, the present writ petition has been filed by MCD.

11. Ms. Madhu Tewatia, counsel appearing on behalf of MCD submits that MTT while entertaining the application filed on behalf of RITES deprived MCD the opportunity of making submissions regarding the validity of the notice issued under Section 123D and the non-applicability of the judgment in ***Seth Pokharmal*** (supra) in the present case. The appropriate

remedy available to RITES, if aggrieved by the assessment order dated 10th September, 2020, was to appeal the said order and not to prefer an application in the execution proceedings of the order dated 22nd July, 2019 before the MTT.

12. It is contended that in a case of concealment, the judgment in ***Seth Pokharmal*** (supra) would have no application and therefore, MCD would be entitled to pass the assessment order with effect from assessment year 2004-05.

13. Mr. Vardhman Kaushik, counsel appearing on behalf of RITES submits that the judgment in ***Seth Pokharmal*** (supra) was fully applicable in the present case as MCD had not made out any case of concealment either in the show cause notice or in the impugned assessment order.

14. To be noted, against the judgment of this Court in ***Seth Pokharmal*** (supra), an SLP is pending before the Supreme Court.

15. The MTT in the impugned order on 3rd February, 2021 has held that the judgment in ***Seth Pokharmal*** (supra) is applicable in the present case and hence, MCD could not have finalized assessment for a period of more than 3 years. The aforesaid findings have been made without giving an opportunity to MCD to put forth its case that the judgment in ***Seth Pokharmal*** (supra) would not apply in the present case on account of concealment. MTT could not, in execution proceedings arising out of the order dated 22nd July, 2019, adjudicate upon the assessment and notice issued under Section 123D of the DMC Act, and thereby determine questions of law and fact that had not been decided in the main appeals.

16. Having heard the counsel for parties, in my considered view, MCD has to be given an opportunity to determine whether the judgment in ***Seth***

Pokharmal (supra) would be applicable in the facts and circumstances of the present case in light of the contentions made by the MCD that there has been concealment in the present case.

17. In view thereof, the present writ petition is disposed of in terms of the following directions:

i. The impugned order dated 3rd February, 2021 is set aside.

ii. MCD will make a determination whether there has been any concealment on the part of RITES and whether the judgment in ***Seth Pokharmal*** (supra) would apply to the facts and circumstances of this case.

iii. To make the aforesaid determination, a personal hearing would be granted to the representative of RITES.

iv. Upon personal hearing, a speaking order shall be passed by the MCD on the aforesaid aspect within three (3) months from today.

v. Upon passing of the speaking order, MCD shall adjust the amount of tax, if any, which has been recovered from RITES.

vi. RITES would be at liberty to challenge the aforesaid speaking order in accordance with law.

18. All rights and contentions of the parties are kept open.

19. The date already fixed before the Court on 4th August, 2026 stands cancelled.

AMIT BANSAL, J

JULY 8, 2026

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