(2012) 05 DEL CK 0230

In the Delhi High Court

Case No : Writ Petition (C) 1324 of 2012 and CM 2848 of 2012

Rita Bhutani — APPELLANT

Vs

N.D.M.C. — RESPONDENT

Date of Decision : 10-05-2012

Acts Referred:

New Delhi Municipal Council Act, 1994 — Section 72

Citation : (2012) 05 DEL CK 0230

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : J.S. Lamba and Mr. Ram Singh Bisht, for the Appellant; Madhu Tewatia, Advocate and Ms. Sidhi Arora, for the Respondent

Judgement

Hima Kohli, J.—The petitioner is aggrieved by the property tax bill dated 23.11.2011 raised by the respondent/NDMC in respect of the property bearing Shop No.39-A, Ground Floor, Khan Market, New Delhi, for the assessment year 2011-12. Learned counsel for the petitioner states that the petitioner has been paying the property tax in respect of the subject property regularly and she had deposited a sum of Rs. 11,64,612/- with the respondent/NDMC towards property tax for the assessment year 2010-11. However, the respondent/NDMC had suddenly issued the impugned bill demanding a sum of Rs. 22,49,592/- from the petitioner towards property tax for the assessment year 2011-12 in respect of the subject property, which is highly exaggerated and unjustified. It is further stated that the petitioner is liable to pay property tax to the tune of Rs. 15,25,763/- only and the said amount has been deposited with NDMC during the pendency of the present petition.

2. Counsel for the respondent/NDMC, who appears on advance copy, hands over brief synopsis pertaining to the facts of the case and states that notices issued u/s 72 of the NDMC Act, proposing to revise the existing rateable value of the subject premises to Rs. 21,45,600/- on comparable rental basis w.e.f. 01.04.2000 and to Rs. 54 lacs on actual rental basis w.e.f. 01.04.2008 are

pending consideration at the end of the Department. In the meantime, the NDMC Determination of Annual Rental Byelaws-2009 was notified and the Unit Area Method (UAM) was introduced in the NDMC jurisdiction. Thereafter, the assessee of her own filed the property tax returns showing rent of Rs. 53,25,000/- per annum and she had deposited a sum of Rs. 11,64,612/- as property tax on self-assessment basis for the assessment year 2010-11 and that prior thereto, she had deposited a sum of Rs. 10,91,860/- towards property tax pending finalization of the rateable value.

3. It is, thus, contended by learned counsel for the respondent/NDMC that the tax deposited by the petitioner has been received by the NDMC on provisional basis and the said amount has been shown towards the credit of the assessee in the impugned bill, pending finalization of the rateable value from the assessment year 01.04.2000 onwards. Ms. Tewatia, therefore, states that the impugned bill does not raise any demand payable by the petitioner but only reflects that an amount of Rs. 22,49,592/- is lying in the credit of the petitioner subject to adjustment.

4. Counsel for the petitioner refutes the contention of the counsel for the respondent/NDMC that the rateable value in respect of the subject premises is pending finalization w.e.f. 01.04.2000 pursuant to issuance of notices u/s 72 of the NDMC Act.

5. In view of the submission made by the counsel for the respondent/NDMC that the figures reflected in the impugned property tax bill dated 23.11.201, to the tune of Rs. 22,49,592/- is towards the credit of the petitioner and not a fresh demand, the anxiety of the petitioner in this regard stands allayed. However, it is rather surprising to notice that NDMC has not finalized the rateable value of the subject premises w.e.f. 01.04.2000 and from 01.04.2008, after purportedly issuing notices to the assessee u/s 72 of the Act.

6. As counsel for the respondent/NDMC states that the notices u/s 72 of the NDMC Act are pending consideration for revising the rateable value of the subject premises fixed prior to 01.04.2000, it is deemed appropriate to direct the respondent/NDMC to finalize the rateable value, if so pending at its end in accordance with law. The objections stated to have been filed by the assessee shall be taken into consideration at the time of finalizing the rateable value. As counsel for the petitioner states that an opportunity of hearing be afforded to the petitioner before the rateable value of the subject premises is determined by NDMC, it is deemed appropriate to direct that the petitioner or her authorized representative shall appear before the Director (Tax), NDMC on 23.05.2012 at 3 PM for a hearing. Thereafter, an assessment order shall be passed by the competent authority in accordance with law, within a period of four weeks from the date of conclusion of submissions, under written intimation to the petitioner. In case the petitioner is aggrieved by the orders that may be passed, she shall be entitled to seek her remedies as per law.

The petition is disposed of alongwith the pending application.

