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

\+ W.P.(C) 1695/2024

MISHRY HOLDING LIMITED ..... Petitioner
Through: Mr. Arav Kapoor and Mr. Rahul Dwivedi, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ANR. ....Respondents
Through: Mr. Tushar Sannu, SC for MCD along with Mr. Manoviraj Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% **06.02.2024**

CM APPL.6991/2024 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 1695/2024 and CM APPL.6990/2024 (Stay)

1. The present petition assails the Assessment Notice No. TAX/MCD/SOUTH/2023/031980 dated 07.08.2023, Suo Moto Assessment Notice No. TAX/SZ/2023-24/340 dated 16.08.2023, demand notice dated 29.08.2023, Show Cause Notice No. MCD/A&C/SZIRKP/2022-231183 dated 12.09.2023 and Warrant of Distress No. A&C/RKP/SZ/MCD/2023-24/875 dated 27.09.2023 issued by the respondent no.1 on the ground that the same have been issued by the Respondent No. 1 in a unilateral manner, without following the procedures/provisions or scheme of the Delhi Municipal Corporation Act, 1957 and without affording an opportunity of hearing to the petitioner.

2. It is submitted on behalf of the petitioner that there is no basis to assume that there was any discrepancy/omission/concealments in self-assessment of the property tax return filed by the petitioner for the past years i.e. 2004-05 to 2023-24 so as to occasion the assessment of the concerned property under Section 123D of DMC Act, 1957.

3. It is further contended on behalf of the petitioner that although, the said suo-moto assessment order dated 16.08.2023 under Section 123D of DMC Act, 1957 records that the " Tax payer was asked to appear in person within a period of 7 days of the receipt of the notice to produce relevant evidence and documents in support of his contentions", in actual fact, no hearing whatsoever was provided to the petitioner before passing of the said order.

4. Learned counsel for the petitioner submits that the demand notice dated 29.08.2023 has not even been supplied to the petitioner.

5. Issue notice.

6. Learned counsel as aforesaid accepts notice on behalf of respondent no.1.

7. Learned counsel for respondent no.1 seeks some time to take instructions and to file reply. Let the same be filed within a period of 6 weeks from today. Rejoinder thereto be filed within a period of 3 weeks thereafter .

8. In the meantime, in view of the aforesaid circumstances as pointed out by the learned counsel for the petitioner, it is directed that subject to deposit of 50% of the assessed amount (i.e. 50% of 71,24,128/-) by the petitioner in the registry of this court within a period of 2 weeks from today, the respondent shall be restrained from taking any further action against the

petitioner in furtherance of Assessment Notice No. TAX/MCD/SOUTH/2023/031980 dated 07.08.2023, Suo-Moto Assessment Notice No. TAX/SZ/2023-24/340 dated 16.08.2023, demand notice dated 29.08.2023 and Show Cause Notice No. MCD/A&C/SZIRKP/2022-23 dated 12.09.2023

9. Learned counsel for the respondent no.1 submits that the respondent shall withdraw the warrants of distress no. A&C/RKP/SZ/MCD/2023-24/875 dated 27.09.2023 in light of the undertaking of learned counsel for the petitioner to deposit the aforesaid amount in this Court within a period of 2 weeks from today. It is directed accordingly.

10. List on 22.05.2024.

11. In the meantime, respondent shall also decide the representation of the petitioner dated 11.10.2023, and pass a speaking orderafter affording an opportunity of hearing to the petitioner. Let the same be done within a period of 6 weeks from today. In case, any documents are required by the respondent from the petitioner for the purpose of deciding the said representation, the petitioner shall provide the same to the respondent. The petitioner shall also be at liberty to make supplementary submissions before the concerned Officer of the respondent no.1.

SACHIN DATTA, J

FEBRUARY 6, 2024/AT