



Via Video Conferencing

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11319/2021 & CM APPL. 34856/2021, CM APPL. 40518/2021, CM APPL. 44246/2021,
KHAO GALI RESTAURANTS PVT LTD Petitioner
Through Mr.Devashish Bharuka with Mr.Alok Sangwan, Mr.Justine George, Adv.
Mr.Vivek Kohli, Sr.Adv. with Mr.Nalin Talwar, Mr.Sunil Tyagi, Ms.Perna Kohli, Adv.

versus

COMMISSIONER OF EXCISE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI AND ORS & ORS.
..... Respondent
Through Mr.Rahul Mehra and Dr.Abhishek M. Singhvi, Sr.Advs. with Mr.S.K.Tripathi, S.C.

+ W.P.(C) 12523/2021 & CM APPL. 43007/2021
M/S CHANMEET LEASING AND FINANCE PVT. LTD Petitioner
Through Mr.N.P.Singh, Adv.

versus

GOVT. OF NCT OF DELHI & ORS. Respondent
Through Mr.Rahul Mehra and Dr.Abhishek M. Singhvi, Sr.Advs. with Mr.S.K.Tripathi, S.C.

+ W.P.(C) 12537/2021
PATH2WAY HR SOLUTIONS PVT LTD & ORS. Petitioner
Through Mr.Maninder Singh, Sr.Adv. with Mr.Tanmaya Mehta, Mr.Sanjay About, Mr.Ankit Agarwal, Adv.



versus

GOVERNMENT OF NCT OF DELHI Respondent
Through Mr.Rahul Mehra and Dr.Abhishek M
Singhvi, Sr.Advs. with Mr.S.K.Tripathi, S.C.

+ W.P.(C) 12578/2021 & CM APPL. 40511/2021, CM APPL.
40594/2021
M/S ORIGIN APPLIANCES PVT. LTD Petitioner
Through Mr.N.P.Singh, Adv.
Mr.Vivek Kohli, Sr.Adv. with Mr.Nalin Talwar,
Mr.Sunil Tyagi, Ms.Perna Kohli, Adv.

versus

GOVT. OF NCT OF DELHI & ORS. Respondent
Through Mr.Rahul Mehra and Dr.Abhishek M
Singhvi, Sr.Advs. with Mr.S.K.Tripathi, S.C.

+ W.P.(C) 12580/2021 & CM APPL. 43102/2021
M/S NOVA GARMENTS PVT. LTD Petitioner
Through Mr.N.P.Singh, Adv.

versus

GOVT. OF NCT OF DELHI & ORS. Respondent
Through Mr.Rahul Mehra and Dr.Abhishek M
Singhvi, Sr.Advs. with Mr.S.K.Tripathi, S.C.

+ W.P.(C) 12619/2021
JSN INFRATECH LLP Petitioner
Through Mr.Vivek Kohli, Sr.Adv. with
Mr.Nalin Talwar, Mr.Sunil Tyagi, Ms.Perna
Kohli, Adv.

versus



GOVERNMENT OF NCT OF DELHI & ORS. Respondent
Through Mr.Rahul Mehra and Dr.Abhishek M
Singhvi, Sr.Advs. with Mr.S.K.Tripathi, S.C.

+ W.P.(C) 13668/2021 & CM APPL.43169/2021
M/S ADHARV ENTERPRISES Petitioner
Through Mr.Siddharth Sharma, Adv.
versus

GOVERNMENT OF NCT OF DELHI & ANR. Respondent
Through Mr.Rahul Mehra and Dr.Abhishek M
Singhvi, Sr.Advs. with Mr.S.K.Tripathi, S.C.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

ORDER
% 05.01.2022

1. Pleadings in the lead matter i.e. W.P.(C) 12537/2021 are complete. However, learned counsel for the petitioners in some of the connected petitions submit that they have received a copy of the counter affidavit only recently and, therefore, pray for and are granted, two weeks' time to file rejoinder thereto.
2. Mr. Maninder Singh, learned senior counsel appearing for the petitioner submits that even though in terms of this Court's order dated 09.12.2021, the respondents were obligated to make proportionate reductions towards the agreed upon amount of license fee in respect of 67 wards, which as per them are in non-conforming areas, the respondents are not complying with the said directions in true letter and spirit. The respondents, instead of making the necessary



reductions on the basis of three vends per ward in non-conforming areas, are making adjustments only in respect of two vends for each ward in these non-conforming areas. He therefore, contends that once, under the terms of the tender and the license, the petitioners are entitled to open three vends in each ward, the respondents ought to grant reduction for three vends and not only for two vends per ward in the non-conforming areas.

3. On the other hand, Dr. Abhishek M. Singhvi and Mr. Rahul Mehra, learned senior counsel appearing for the respondents, by placing reliance on the clauses of the tender documents, seek to contend that the respondents are rightly granting reductions only for two vends per ward, as under the terms of the license, it was incumbent upon the petitioner to open two vends in each ward and the third vend could, therefore, be opened in any other ward. They, therefore, submit that insofar as vends located in non-conforming areas are concerned, it was always open to the petitioners to shift the third vend to any other ward in the conforming areas.
4. In my view, in order to determine this issue, a deeper look into the relevant clauses of the tender documents and the excise policy would be required and, therefore, this aspect will be considered at the time of final hearing. For the present, the respondents may continue to grant reductions on the basis of two vends in each ward, which will remain subject to outcome of the present petition.
5. At this stage, learned counsel for the petitioner further submits that all the petitioners had made an earnest money deposit of Rs.30 crores at the time of submitting their bids, which amount ought to be suitably



adjusted against the amounts payable by the petitioner in terms of this Court's order dated 09.12.2021.

6. Dr. Singhvi & Mr. Mehra assure the Court, on instructions, that the necessary steps in this regard will be taken and the amounts will be duly adjusted. They further submit that, in the case of petitioners who are defaulters, the due amount will be adjusted from the earnest money deposit and, in case the petitioners have been making regular payments in terms of order dated 09.12.2021, the due amount will be refunded to them.
7. It also emerges that most of the petitioners have a grievance regarding the total number of non-conforming wards, which according to the respondents is 67. The petitioners, however, contend that the number is much higher in reality. In my view, this aspect can be examined only after taking into consideration the stands of the three Municipal Corporations as well as the Delhi Development Authority who have not been arrayed as parties to the present petition. However, since it is the respondent's case that the issue of wards in the non-conforming areas is still under consideration of the committee appointed by the administrator, this aspect will be considered at a later stage, if the need so arises.
8. List on 03.02.2022.
9. Interim orders to continue till the next date.

CM APPL. 447/2022 in W.P.(C) 12619/2021

10. Vide the present application, the petitioner has sought a direction to the respondents to adjust the purportedly excess amount of



Rs.32,59,94,106/- paid under protest by it towards the future license fee payable w.e.f. from 01.01.2022 towards Zone 6 and 7.

11. After some arguments, learned senior counsel for the petitioner submits that for the present the petitioner will be satisfied if the present application is treated as a representation by the respondents and a reasoned and speaking order is passed thereon.
12. Learned senior counsel for the respondents have no objection to the said request.
13. The application is accordingly disposed of by directing the respondents to consider the application as a representation from the petitioner and pass a reasoned and speaking order thereon within three weeks, after following the principles of natural justice.
14. Needless to state in case the petitioner is aggrieved by any order passed by the respondents, it will be open for it to seek legal recourse as permissible in law.

REKHA PALLI, J

JANUARY 5, 2022

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