



MAJESTY LEGAL

Advocates & Solicitors

ADVOCATES OFFICE NOT SUBJECTED PROPERTY TAX

(SOUTH DELHI MUNICIPAL CORPORATION V/S B N MAGON¹)

The Delhi High Court held that an advocate's office run from a residential building does not qualify as a "business building" subject to Property Tax under the Delhi Municipal Corporation Act (hereinafter referred to as **DMC**). The court clarified that the professional activity of lawyers cannot be considered a commercial activity. It is noted that the Master Plan for Delhi permits professional activity in residential buildings but it does not empower the corporation to levy tax on such activities. **Section 116 A (1)** of the DMC Act, 1957 expressly excludes taxation of professional activity. The Hon'ble court held that unless explicitly stated, the power to tax must be expressed in the statute and cannot be inferred or presumed.

FINDING OF THE CASE:

- The South Delhi Municipal Corporation (hereinafter referred to as **SDMC**) appealed against the judgment of the Single Judge, which held that services rendered by advocates are professional activities and not subject to tax under the category of business establishment. The SDMC argued that all buildings and activities within its jurisdiction are subject to property tax, including those used for professional activity. The respondent contended that the DMC Act does not have the power to tax professional activities carried out in residential buildings.
- The Hon'ble Delhi High Court upheld the ruling of the single bench, stating that the professional activity of lawyers does not fall under the category of commercial establishment or business activity. The Hon'ble court placed reliance on the judgement in the case of **V. Sasidharan v. M/s. Peter and Karunakar and others²** and said that professional activities of lawyers are not considered commercial establishments. The Hon'ble Court emphasized that taxation powers must be specifically mentioned in the statute and cannot be presumed. The Hon'ble Court established that advocates' "professional activity" is not included by **clauses 9(a)(b)(i) and (ii)** of the Delhi Municipal Corporation (Property Taxes) Bye-laws, 2004. The appeal was dismissed, and it was held that a lawyer's office should not be construed as a business establishment subject to property tax.

TEAM MAJESTY LEGAL³

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¹ LPA 546/2015

² AIR 1984 SC 1700

³ Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.