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

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

\+ **W.P.(C) 1394/2011 and CM APPL. 4160/2013, CM APPL. 37539/2019, CM APPL. 37540/2019, CM APPL. 49730/2019**

1. **M/S EROS RESORTS & HOTEL LTD**
   A COMPANY INCORPORATED UNDER THE COMPANIES ACT, HAVING ITS REGD. OFFICE AT S-1 AMERICAN PLAZA, INTERNATIONAL TRADE TOWER, NEHRU PLACE, NEW DELHI - 110019.
2. **SHRI AMIT RAI SOOD**,
   S/O SHRI SATISH KUMAR SOOD, R/O 19 GOLF LINKS, NEW DELHI - 110003.

.....PETITIONERS

Versus

MUNICIPAL CORPORATION OF DELHI,
SERVICE TO BE EFFECTED THROUGH ITS COMMISSIONER, TOWN HALL, CHANDNI CHOWK, DELHI - 110006.

.....RESPONDENT

With

\+ **CONT.CAS(C) 244/2019**

\+ **W.P.(C) 14853/2004 and CM APPL. 31631/2016, CM APPL. 37557/2019, CM APPL. 37558/2019, CM APPL. 49818/2019, CM APPL. 11620/2021**

W.P.(C) 6654/2013 and CM APPL. 8374/2014

+ **W.P.(C) 7804/2013**
+ **CONT.CAS(C) 245/2019**
+ **CONT.CAS(C) 250/2019**
+ **CONT.CAS(C) 252/2019**
+ **W.P.(C) 1672/2014**
+ **W.P.(C) 1792/2014 and CM APPL. 3752/2014**
+ **W.P.(C) 17113/2004 and CM APPL. 4150/2013**
+ **W.P.(C) 74/2014 and CM APPL. 26086/2015**
+ **W.P.(C) 4505/2011**
+ **W.P.(C) 3431/2012 and CM APPL. 7245/2012**
+ **W.P.(C) 3692/2012**
+ **W.P.(C) 1876/2013**
+ **W.P.(C) 2252/2013**
+ **W.P.(C) 1260/2014**
+ **W.P.(C) 2537/2014 and CM APPL. 37925/2022**
+ **W.P.(C) 2441/2015**
+ **W.P.(C) 2546/2019 and CM APPL. 11816/2019, CM APPL. 1370/2020, CM APPL. 14147/2021**
+ **W.P.(C) 3507/2022 and CM APPL. 10334/2022, CM APPL. 39102/2022**
+ **W.P.(C) 226/2020 and CM APPL. 726/2020, CM APPL. 3457/2020**
+ **W.P.(C) 227/2020 and CM APPL. 728/2020, CM APPL. 3455/2020**
+ **W.P.(C) 4459/2020 and CM APPL. 16056/2020**
+ **W.P.(C) 6549/2020 and CM APPL. 22915/2020**
+ **W.P.(C) 4956/2021 and CM APPL. 15207/2021**
+ **W.P.(C) 3948/2023 and CM APPL. 15383/2023**

Petitioners:

(Through:Mr. Harish Malhotra, Sr. Adv. with Mr. Rajender Agarwal and Mr. Anoop Kumar, Advs. in W.P.(C) 1394/2011, CONT.CAS(C) 244/2019, CONT.CAS(C) 245/2019, CONT.CAS(C) 250/2019 and CONT.CAS(C) 250/2019.
Mr. Sidharth Aggarwal, Adv. in W.P.(C) 1792/2014.
Mr. Ravi Kant Chadha, Sr. Adv. with Ms. Mansi Chadha, Adv. in W.P.(C) 17113/2004.
Mr. Atul Nigam, Ms. Tanvi Nigam and Ms. Lubhanshi Tanwar, Advs. In W.P.(C) 74/2014.
Mr. Harish Malhotra, Sr. Adv. with Mr. Navneet Bhardwaj, Mr. Mukesh

Kaushik and Mr. Anoop Kumar, Advs. in W.P.(C) 3692/2012.
Mr. Gaurav Sarin, Sr. Adv with Ms.Charul Sarin and Mr. Harish Kumar, Adv in W.P.(C) 226/2020 and W.P.(C) 227/2020.
Mr. Gaurav Sarin, Sr. Adv with Mr. Amitabh Marwah, Adv in W.P.(C) 2252/2013.
Mr. Rajiv Nayar, Sr. Adv with Mr. Aman Ahluwalia, Ms. Ruby Singh Auja, Mr. Devang Kumar, Mr. Jappanpreet Hora and Mr. Tribhuvan Narain Singh,Advs. in W.P.(C) 2546/2019.
Dr. Lalit Bhasin, Ms. Nina Gupta, Mr. Ajay Pratap Singh and Ms. Vishali Sivagnanam, Advs. in W.P.(C) 14853/2004.
Mr .B. B. Gupta, Sr. Adv. with Mr. Achal Gupta, Mr. Snehil Srivastava and Mr. Karan, Advs. in W.P.(C) 4505/2011 and W.P.(C) 1876/2013.
Mr. Akhil Pal Chhabra, Ms. Ritu Chhabra and Ms. Udisha Sahay, Advs. In W.P.(C) 1260/2014, W.P.(C) 2537/2014, W.P.(C) 2441/2015, W.P.(C) 226/2020, W.P.(C) 4459/2020, W.P.(C) 6549/2020 and W.P.(C) 3948/2023.
Mr. Badal Dayal, Mr. Surender Wankhede, Ms. Nishi Chauhan and Ms. Rachna dayal, Advs. in W.P.(C) 7804/2013
Mr. Akhilesh Singh and Mr. Varun Jain, Advs. for in W.P.(C) 3431/2012.
Mr. Ravi Kant Chadha, Sr. Adv with Ms. Mansi Chadha, Adv. in CONT.CAS(C) 250/2019.)

Respondents:

(Through: Mr. Sanjay Poddar, Sr. Adv. with Ms. Sunieta Ojha, Mr. Govind Kumar, Mr. Apurv Kumar, Ms. Anamika, Mr. Rosy and Ms. Vasudha Priyansha, Advs. for MCD.
Mr. Anirudh Bakhru, Ms. Archita Mahlawat, Mr. Ayush Puri, Mr. Kanv Mr. Mohd. Umar and Mr. Sultan Jafri, Advs. for R-3 in W.P.(C) 1792/2014.
Ms. Madhu Tewatia and Mr. Adhirath Singh, Advs. in W.P.(C) 14853/2004, W.P.(C) 1394/2011, W.P.(C) 6654/2013, W.P.(C) 7804/2013, W.P.(C) 17113/2004, W.P.(C) 4505/2011 and W.P.(C) 2252/2013.
Ms. Saroj Bidawat, SC for MCD in W.P.(C) 14853/2004, W.P.(C) 1394/2011, CONT.CAS(C) 244/2019 and CONT.CAS(C) 250/2019.
Ms. Arunima Dwivedi, CGSC with Ms. Himanshi, Ms. Monalisa and Mr. Sainyam Bhardwaj, Adv. for UoI in W.P.(C) 3692/2012.
Mr. Nipun Saxena, Ms. Aadya Pandey and Ms. Deepali Dabas, Advs. for D-5 in W.P.(C) 1876/2013.
Mr. Tarun Johri, Mr. Ankur Gupta and Mr. Vishwajeet Tyagi, Advs. for

DMRC in W.P.(C) 2546/2019, W.P.(C) 3507/2022 & W.P.(C) 4956/2021.
Mr. Siddharth Panda and Mr. Anil Pandey, Advs. for R-1 in W.P.(C) 3507/2022.
Mr. Tushar Sannnu SC for MCD with Mr. Shivam, Adv. in W.P.(C) 14853/2004, W.P.(C) 1394/2011, W.P.(C) 1672/2014, W.P.(C) 1792/2014, W.P.(C) 2441/2015, W.P.(C) 2546/2019, W.P.(C) 226/2020, W.P.(C) 227/2020, W.P.(C) 4459/2020, W.P.(C) 6549/2020 and W.P.(C) 3948/2023.
Mr. Devang Kumar, Mr. Jappanpreet Hora and Mr. Tribhuvan Narain Singh, Advs. for respondent No.2 in W.P.(C) 3507/2022 and W.P.(C) 4956/2021.
Ms. Puja S. Kalra, Standing Counsel for MCD in CONT.CAS(C) 245/2019 and CONT.CAS(C) 250/2019.
Mr. Vipin Tokas, Adv. in CONT.CAS(C) 252/2019.
Ms. Bharathi Raju, SPC with Ms. Divyangi, Adv for R-3 for UOI in W.P.(C) 2441/2015.
Mrs. Anjana Gosain and Ms. Shreya Manjari, Advs. for R-2 in W.P.(C) 1792/2014.
Ms. Avni Singh, PC for GNCTD with Mr. Gourav Mundra, Adv. in W.P.(C) 2441/2015.
Mr. Sushil Kumar Pandey, SPC for UOI in W.P.(C) 226/2020 & W.P.(C) 1394/2011)

% Reserved on: 04.08.2025
Pronounced on: 12.09.2025

JUDGMENT

The instant batch of writ petitions under Article 226 of the Constitution of India, 1950 (*hereinafter referred to as 'the Constitution'*) have been filed challenging the recommendations made by the Municipal Valuation Committee (*hereinafter referred to as 'MVC'*) under Section 116 of the Delhi Municipal Corporation Act, 1957 (*hereinafter referred to as 'DMC Act'*), implemented by the Municipal Corporation of Delhi (*hereinafter referred to as 'the MCD'*) for levying property tax on the

petitioner-hotels. The petitioners have sought the quashing of the user multiplier factor of 10 and the imposition of the rate of tax as 20% as against 10% before.

2. The majority of the writ petitions concern hotels of the erstwhile 5-star category. The rating of 5-star has been allegedly reclassified as 4-star w.e.f. 7.02.2022.

3. In the year 2004, the Delhi Municipal Corporation (Amendment Act), 2003 (*hereinafter referred to as 'Amendment Act of 2003'*) came into force which, *inter alia*, brought about a change in the property tax regime to the extent of replacing the then existing '*Rateable Value' (RV)* system with *'Unit Area Method' (UAM).* After the enforcement of UAM based system, the property tax for a particular property came to be calculated based on annual value of the property arrived at as per Section 116 E of the Amendment Act of 2003, by multiplying the Unit Area Value (*UAV*) of such covered space of the property and the multiple factors of occupancy, age, structure, and use as referred to in clause (b) of Section 116 A (2) of DMC Act. After the said amendment, the DMC (Property Taxes) Bye-Laws, 2004 (*hereinafter referred to as 'Bye-laws')* were also issued by the MCD.

4. The multiplying factors as provided under the property tax guide issued by the MCD is as under: -

a. Structure Factor (SF)

b. Age Factor (AF) - for the rebate on age of building.

c. Occupancy Factor (OF) - for self acquired and tenanted properties; and

d. Use Factor (UF) - for residential and non-residential uses.

The annual value of a property can be calculated in the following manner:

Annual Value = Unit area Value x Covered Area x Multiplicative factors (OF, AF, SF, UF).

5. At the threshold, it is noted that in the oldest pending writ petition bearing no. W.P. (C) No. 14863-66/2004, *vide* order dated 10.09.2004, it was recorded that the challenge to the *vires* of Section 116(E) of the DMC Act, as amended by the Amendment Act of 2003, was given up. Similar orders have also been passed by the Court in various other writ petitions taken up for adjudication in the instant batch. Thus, the constitutional validity of any of the statutory provisions of the DMC Act has not been assailed by the petitioners. Pursuant to the aforenoted aspect, the instant petitions have been placed before the Court.

Historical Background of Legislative Provisions and a Brief History of MVC

6. Before delving into the submissions made by the parties and issues arising therefrom, it is necessary to briefly outline the historical and legislative background governing municipal functions in the National Capital Territory (NCT) of Delhi. As already noted by this Court in ***Harsh Vardhan Bansal v. MCD***[1], initially, municipal governance in Delhi was administered under the provisions of the Punjab District Boards Act, 1883, and the Punjab Municipal Act, 1911. Multiple bodies and local authorities oversaw the administration of different areas, including the Municipal Committee, Delhi, the Notified Area Committee, Civil Stations, the Notified Area Committee, Red Fort, the Municipal Committee, Shahdara, Delhi, the Municipal Committee, West Delhi, and the Municipal Committee, South Delhi, among others. The multiplicity of local bodies managing municipal affairs led to considerable

[1] 2025 SCC OnLine Del 7926

administrative complications and practical difficulties for both the authorities and the general public. The fragmented governance structure necessitated a unified and cohesive system for municipal administration.

7. In response, Parliament enacted the DMC Act, with the objective of consolidating and amending the laws relating to municipal governance in Delhi. Section 3 of the DMC Act empowers the Government of the NCT of Delhi to establish, through notification in the Official Gazette, one or more Corporations responsible for municipal governance under the Act. Each Corporation so established is constituted as a body corporate, bearing the name notified by the Government, and is endowed with perpetual succession and a common seal. Subject to the provisions of the Act, the Corporations are vested with the authority to acquire, hold, and dispose of property, and to sue or be sued.

8. The DMC Act contains comprehensive provisions under various chapters that deal with aspects such as the establishment and functioning of the district corporations, the roles of municipal authorities and officers, revenue and expenditure, property and contracts, and the maintenance of accounts and audits. Notably, Chapter VIII of the DMC Act specifically governs the framework of municipal taxation. Section 113 of the DMC Act, thereto empowers the MCD to levy various forms of taxes, including property tax.

9. Under Section 114 of the DMC Act, property tax comprises two primary components, i.e., building tax and vacant land tax. Section 114A outlines the mechanism for levying building tax, stipulating that such tax shall be calculated by applying the rate prescribed by the MCD under Section 114D on the annual value of the covered space of the building, as determined under Section 116E (1) of the DMC Act. Conversely, vacant land tax is governed by Section 114C of the DMC Act and is calculated

by applying the rate specified by the MCD under Section 114E of the DMC Act to the annual value of the vacant land, as determined under Section 116E(3) of the DMC Act. Thereafter, Section 114D of the DMC Act prescribes that the base rate of property tax on buildings in Delhi must fall within a range of 6% to 20% of the annual value, with the MCD having the discretion to fix different rates within this range for different colonies or groups of buildings therein.

10. Section 115A of the DMC Act further clarifies that each building and its associated vacant land shall be assessed as a single unit. More importantly, Section 116 of the DMC Act authorizes the Government to constitute an MVC through notification in the Official Gazette. The MVC is to consist of a chairperson and not less than two and not more than six other members, as determined by the Government. As previously discussed, the MVC's primary function is to make recommendations to the MCD regarding the classification of vacant lands and buildings within each ward of Delhi into colonies and groups, the fixation of base unit values for covered spaces and vacant lands, and the determination of increase or decrease factors for property valuation.

11. Subsequent to the Amendment Act of 2003, the Government of NCT of Delhi appointed an Expert Committee to recommend the implementation of the UAM for property tax assessment in MCD areas. The Committee convened eight times between 09.07.2002 to 31.01.2003. It reviewed international experiences, studied UAM models from other Indian cities, and conducted a sample survey covering approximately 80,000 properties. On 21.10.2002, the classification of colonies and areas, as recommended by a sub-committee and approved by the Expert Committee, was published in newspapers for public consultation. Taxpayers were invited to submit objections or suggestions [illegible]

31.10.2002, which was later extended to 15.11.2002. In January 2003, the interim report, comprising recommendations and legislative proposals along with colony classifications, was submitted to the Chief Minister of the NCT of Delhi, and the final report was submitted on 31.01.2003.

12. As per the amended provisions, particularly Section 116A(1)(a)-(j) and 116A(2)(a)-(b) of the DMC Act, MVC-I was constituted to recommend the classification of properties, base unit area values (*BUAVs*), and multiplying factors.

13. MVC-I was constituted on 28.10.2003 and commenced work on 29.10.2003. Prior to its formal constitution, MCD had issued a public notice dated 02.10.2003 inviting feedback on proposed classifications, BUAVs, and multiplicative factors by the expert committee. Following its constitution, a second public notice dated 30.10.2003 was issued. MVC-I submitted its interim report on 31.12.2003, recommending UF-4 for hotels below 3-star and UF-5 for 5-star hotels, towers, and hoardings. Public objections were again invited against the interim report on 03.01.2004, and 675 representations were received, followed by public hearings. The final report was submitted on 28.02.2004 and notified to come into effect from 01.04.2004. The final report retained UF-4 for hotels below 3-star and revised the UF for 3-star and above hotels to UF-10, as originally recommended by the expert committee.

14. Thereafter, on 20.09.2006, MVC-II was constituted. The first meeting was held on 05.10.2006, and the Committee conducted 34 meetings in total. The interim report was submitted on 25.05.2007, recommending UF-4 for un-starred hotels, UF-5 for hotels up to 3-star, UF-7 for hotels up to 5-star, and UF-10 for hotels above 5-star. However, the report of MVC-II was never accepted or implemented by the MCD.

15. MVC-III was constituted *vide* Notification No. F.4/4/2008/UD/15596 dated 08.09.2009. The Committee submitted its interim report to MCD under Section 116A on 25.06.2010, recommending UF-8 for 3 and 4-star hotels and UF-10 for 5-star and above. In compliance with Section 116B (1) of the DMC Act, MCD placed the report in the public domain *via* advertisement dated 02.01.2011, websites, and physical copies at zonal offices. Representations and public hearings followed. The final report was submitted on 28.04.2011, fixing UF-4 for hotels below 3-star and UF-10 for 3-star and above hotels. The implementation of the recommendations of MVC III took place in the unified MCD on 15.07.2022.

16. Thereafter, MVC-IV was constituted on 01.02.2017. However, its recommendations were never adopted or enforced by the MCD.

17. Subsequently, MVC-V was constituted on 05.10.2021 by the Government of NCT of Delhi. Its interim report was submitted on 13.08.2022. A public notice was uploaded on the MCD website on 24.08.2022, followed by a press publication on 25.08.2022. The MVC-V received 461 objections, and public hearings were conducted on 09.09.2022, 10.09.2022, 17.09.2022, and 24.09.2022.

18. On 30.09.2022, the MVC-V submitted its Final Report to the MCD, which was officially accepted on 04.11.2022. MVC-V recommended a UF of 8 for 5-star and above hotels, while UF-4 was assigned to all other types of hotels. Subsequently, on 19.04.2023, the MCD implemented the MVC-V recommendations, which came into effect from 01.04.2023.

Submissions made by petitioners

19. Mr. Harish Malhotra, learned senior counsel appearing for the petitioner in W.P. (C) No. 1394/2011, vehemently criticizes the

imposition of UF-10 and the levy of property tax at the rate of 20% on hotels categorized as 3-star and above. He contends that such classification is arbitrary, *ultra vires* the DMC Act, and lacks any rational nexus with the object sought to be achieved. He contends that the instant petition pertains to two hospitality establishments located in Mayur Vihar District Centre, New Delhi, initially rated as 5-star and 4-star hotels, but reclassified as 4-star hotels as of February 2022. According to him, despite this downgrade, the impugned taxing provisions continue to be enforced without distinction, treating both properties as falling under the 3-star and above category, thereby attracting the highest UF-10 and tax rate of 20%.

20. Learned senior counsel submits that the UAM introduced under Sections 116A to 116E of the DMC Act requires the annual value of a building to be computed based on the UAV, total covered space, and multiplicative factors such as structure, age, usage, and occupancy status. He further submits that under the proviso to Section 116C of the DMC Act, the MCD is obligated to either adopt the MVC's recommendations or obtain express Government approval to deviate. However, according to Mr. Malhotra, a UF-10 for 3-star and above hotels finds no traceable authority in the DMC Act and is therefore, patently *ultra vires*.

21. In this regard, he points out that the original interim report of MVC recommended a UF-5, which was later revised in the Final Report. It is contended that no reasons or objective criteria whatsoever, have been provided for this revision, exposing the arbitrary and whimsical nature of the actions of MVC and MCD. Moreover, it is contended by Mr. Malhotra that the adoption by MCD of a UF-10 without statutory sanction and in deviation from the recommendations of MVC, without seeking government approval, constitutes a violation of Section 116C.

22. Further, according to learned senior counsel, Section 116E (4) mandates that in cases of mixed land usage, the annual value should be computed separately for parts of the building used for different purposes. In the present case, Mr. Malhotra points out that the hotels have heterogeneous functional spaces, *inter alia*, approximately 40% guest rooms (residential use), 20% for restaurants/shops (commercial use), and 40% for plant and machinery, storage, public areas, and parking (utility use). Yet, learned senior counsel contends, the MCD applies a uniform UF-10 across all areas, in clear breach of the statutory mandate under Section 116E (4).

23. It is further argued that the indiscriminate inclusion of basements, primarily used for storage and parking, in the computation of '*covered space*' is impermissible in law. Learned senior counsel then points out that under applicable building Bye-laws, such areas are exempt from Floor Area Ratio (*hereinafter referred to as 'FAR'*) and cannot be equated with revenue-generating areas. Moreover, according to Mr. Malhotra, Section 116E of the DMC Act does not define a basement as '*covered space*' unless converted to commercial use. Therefore, he further reiterates that the approach of the MCD in taxing such areas at the highest rate and factor is impermissible in law.

24. More importantly, learned senior counsel points out that the star classification system, used as the basis for applying UF-10, lacks any statutory recognition. According to him, it is a voluntary metric, designed by the Department of Tourism to promote hospitality standards and not a parameter for tax assessment. Reliance is placed on the decision of this Court in ***Vinod Krishan Kaul and Ors. v. Lt. Governor of Delhi and***

Ors.[2],wherein it was held that economic classification alone, such as school fee structure, cannot justify differential tax treatment, emphasizing the need for rational and legally sanctioned bases for classification.

25. Furthermore, Mr. Malhotra also assails the imposition of a 20% tax rate, although within the permissible bracket under Section 114D of the DMC Act (6%-20%), for being mechanically applied to all hotels without any disclosed criteria or justification. Reliance is placed by him on the decision of the Supreme Court in ***Jindal Stainless Ltd. (2) v. State of Haryana***[3]. It is argued that the MCD provides identical services to all hotels irrespective of star rating, and thus no justification exists for a higher levy on 3-star and above hotels.

26. The classification of star hotels for the purposes of property tax, it is averred by Mr. Malhotra, violates Article 14 of the Constitution, which prohibits unreasonable and arbitrary classifications. According to him, the differential treatment between 1-2 star and 3-star and above hotels, despite similar facilities and municipal service usage, lacks any intelligible *differentia* and fails the test of reasonable classification as enshrined under Article 14 of the Constitution. Reliance is also placed on the decision of the Supreme Court in ***Lokmanya Mills Barsi Ltd. v. Barsi Municipality***,[4] and the decision of the Karnataka High Court in ***Baldwin Girls' High School, Bangalore v. Corporation of the City of Bangalore***[5].

27. Further reliance is also placed on the decision of the Supreme Court in ***Municipal Corporation of Delhi v. Shashank Steel Industries***

[2]2012 SCC OnLine Del 4355
[3] (2006) 7 SCC 241
[4] 1951 SCC OnLine SC 287
[5] 1967 SCC OnLine Kar 79

Pvt. Ltd.,[6] ***State of U.P. v. Maharaja Dharmander Prasad Singh***[7], and ***Babaji Kondaji Garad v. Nasik Merchants Coop. Bank Ltd.***[8]

28. Mr. B.B. Gupta, learned senior counsel appearing in W.P.(C) No. 4505/2011, reinforces the aforenoted arguments by highlighting the violation of procedural safeguards under Sections 116A to 116C of the DMC Act. He submits that once the MCD declared its intention under Section 116B of the DMC Act, it could not enhance the UF without notice or consultation, thereby violating legitimate expectations and principles of natural justice. He argues that the mechanical application of the maximum tax rate of 20%, without any policy basis or transparent criteria, amounts to excessive delegation. He also challenges Bye-law 14 for impermissibly expanding the definition of covered area to include basements and mezzanines, which violates the parent statute and planning norms. He places reliance upon the decision in ***Vinod Krishan Kaul*** to reaffirm that delegated legislation cannot override statutory protections.

29. Mr. Tarun Johri, learned counsel appearing on behalf of the petitioner in W.P.(C) No. 4956 of 2021 and W.P.(C) No. 3507 of 2022, contends that the impugned assessment orders, demand notices, and warrants of distress issued by the MCD seeking to recover property tax and service charges in respect of the property at Sector-21, Metro Station Complex, Dwarka, namely, the Taj Vivanta Hotel, are *ex facie* illegal, arbitrary, and unsustainable in law. It is submitted that the subject property cannot be equated with other 5-star hotels for assessment purposes, as the same was developed on land allotted permanently to DMRC by the DDA under the DDA (Disposal of Developed Nazul Land) Rules, 1981, with express limitations on FAR (1.00) and ground coverage

[6] (2009) 2 SCC 349
[7] (2004) 2 SCC 505
[8] (1974) 2 SCC 50

(25%), unlike the 2.25 FAR applicable to regular commercial hotels under Master Plan for Delhi, 2021. It is further submitted by Mr. Johri that these development restrictions were imposed owing to the designation of the property for transport use under a State government project, and as such, the levy of a UF-10, intended for unrestricted commercial hotel plots, is manifestly arbitrary and violative of Article 14 of the Constitution. It is contended that the revenue potential of the petitioner herein stands significantly reduced due to the imposed planning constraints, and the MVC-III's failure to recognize this distinction renders the classification irrational and the resultant tax demand unconstitutional. It is also submitted that Bye-law 4 has been misapplied in seeking to impose vacant land tax on undeveloped portions of the plot, even though the constructed area exceeds 21.30% and remains within the permissible ground coverage.

30. It is further submitted by Mr. Johri that the issue of liability of DMRC to pay property tax is already *sub judice* in W.P.(C) No. 831 of 2019, wherein this Court, *vide* its order dated 14.03.2019, has stayed the warrant of distress issued for the period 2004–05 to 2018–19. In this context, it is also submitted that the impugned assessment orders for FYs 2008–09 to 2020–21 are in blatant violation of the MoMs dated 23.03.2011, 01.02.2019, and 26.04.2019, duly signed between DMRC and the municipal corporations under the aegis of MoHUA that clearly stipulate that service charges were to be levied up to FY 2016–17 and revised property tax, if any, would be applicable only from FY 2017–18 onwards. It is further submitted that MoHUA has, as recently as 26.04.2024, reiterated the Union Cabinet's decision exempting DMRC from property and electricity tax, subject only to service charges, and SDMC has accordingly agreed to assess DMRC's properties on [illegible]

basis. In light of the foregoing, the impugned demands and coercive recovery proceedings are liable to be quashed as arbitrary, *ultra vires*, and without authority of law.

31. Furthermore, Mr. Rajiv Nayar, learned senior counsel appearing for Indian Hotels Company Ltd. (IHCL) in W.P.(C) No. 2546/2011, aligns with the submissions advanced by Mr. Johri and adds that the subject hotel, part of the Integrated Metropolitan Terminal, was developed with limited commercial intent and substantial planning restrictions. He submits that the initial assessment used to be UF-1 in recognition of these constraints, and the subsequent enhancement to UF-10 lacks justification, as there has been no change in land use, FAR, or commercial viability. He argues that a one-size-fits-all approach undermines the principle of reasonable classification and disproportionately burdens properties developed under public-private infrastructure frameworks, violating Article 14 of the Constitution.

32. Mr. Lalit Bhasin, appearing for the Federation of Hotels and Restaurants Association of India in W.P.(C) No. 14853/2004, categorically assails the use of star ratings as the foundation for property taxation. He submits that star classifications are voluntary, promotional tools regulated by the Ministry of Tourism and have no legislative mandate. As such, according to Mr. Bhasin, MCD lacks the statutory legitimacy to utilize such classifications for taxation purposes. He emphasizes the necessity of ward-wise valuation under the DMC Act and relies on the decision in ***Vinod Kishan Kaul*** to argue that blanket use-based classification distorts the UAV system and is contrary to law.

33. Similarly, Mr. Gaurav Sarin, learned senior counsel assisted by Mrs. Charul Sarin, appearing in W.P.(C) Nos. 2252/2013, 226/2020, and 227/2020, assail the inclusion of basements, stilts, and service area a

taxable covered spaces under Bye-law 14, contending that such inclusion is in violation of Section 116E(4) of the DMC Act and applicable planning regulations. He submits that applying UF-10 to the entire premises, including areas not used for commercial purposes, leads to an unjustified inflation of the tax burden and is against the statute and constitutional rights. Mr. Sarin reiterates that a subordinate legislation must conform to the parent statute and that any excess must be disregarded. He also adopts the arguments advanced by Mr. Malhotra.

34. Additionally, Mr. Ravi Kant Chadha, learned senior counsel appearing in W.P.(C) No. 1711/2004 for Suryya Hotel, adopts the arguments of Mr. Malhotra and challenges the Notification introducing differential treatment among hotels. Moreover, Mr. Sidharth Aggarwal, learned counsel appearing in W.P.(C) No. 1792/2014 on behalf of JW Marriott Hotel, also adopts the submissions made by learned senior counsels appearing in various other writ petitions. He further emphasizes that unique zoning restrictions are applicable to Aerocity, Gurugram, NCR.

Submissions advanced by MCD

35. *Per contra*, Mr. Sanjay Poddar, learned senior counsel assisted by Ms. Suneita Ojha, learned counsel appearing on behalf of the MCD, submits that levy and collection of property tax is within the jurisdiction of MCD and is governed by the self-contained statutory framework provided under Chapter VIII, Sections 113 to 183 of the DMC Act. He further explains that pursuant to the Amendment Act of 2003, which came into force on 01.08.2003, the erstwhile system of RV was substituted by the UAM. According to him, the said transition was operationalised

through the Bye-laws framed under Sections 481(1) read with 483 of the DMC Act and notified on 27.02.2004 with prior approval of the GNCTD.

36. Mr. Poddar also reiterates that the constitutionality of the Amendment Act of 2003 and the Bye-laws was already upheld by a Division Bench of this Court in ***Vinod Kishan Kaul***, wherein it has been held that the MVC is vested with the authority to classify lands and buildings into colonies and groups and to assign multiplicative factors in accordance to such classification. He also states that the UAM regime and MVC procedure have also received imprimatur from the Supreme Court in ***MCD v. Sri Aurobindo Eudcation Society (Regd.)***.[9] According to learned senior counsel, the same was also reiterated by this Court in ***Harsh Vardhan Bansal.***

37. It is submitted by learned senior counsel that MVC-I, III and V were validly constituted in accordance with the statutory scheme and the recommendations made by these Committees, which were adopted by the MCD. He avers that once accepted by the MCD, these recommendations acquire binding character and therefore, in the absence of demonstrable perversity or discriminatory treatment, the challenge to such provisions is untenable. Further, Mr. Poddar points out that Section 116A of the DMC Act statutorily empowers the MVC to effect classification of lands and buildings into colonies and groups for the purposes of assessment and taxation. According to him, this statutory delegation of power has already been upheld as constitutional and in consonance of Article 14 of the Constitution by this Court in ***Vinod Kishan Kaul*** and ***Harsh Vardhan Bansal.***

38. It is submitted that where the MVC, on application of its expert judgment, determines that a set of buildings form a distinct class, it is

[9] 2011 SCC OnLine SC 4001

well within its remit to classify such buildings distinctly. It is further stated that Section 116A(f) of the DMC Act provides for categorisation based on "use-wise" factors, and Bye-law 9(k) defines “star Hotels” as those classified by the Ministry of Tourism, Government of India as 3-star and above.

39. Learned senior counsel also points out that this Court upheld the classification of educational institutions into government/government-aided and private/unaided categories in ***Vinod Kishan Kaul*** and endorsed the separate classification of ‘Super Commercial Properties’ in ***Harsh Vardhan Bansal***, having regard to the distinct functional and locational attributes of those buildings.

40. Furthermore, learned senior counsel submits that the Supreme Court, in ***Kerala Hotel and Restaurant Association v. State of Kerala***[10], while considering sales tax on food served in star hotels, upheld the legitimacy of such classification. According to learned senior counsel, it was held that classification in taxing statutes is entitled to wider latitude and may validly proceed on the economic capacity of taxpayers. Further, he reiterated that the Supreme Court upheld the tariff differentiation based on star classification as a reasonable basis for tax differentiation.

41. Learned senior counsel further avers that the star hotels form a separate and reasonable class by virtue of their economic superiority, higher tariffs, integrated infrastructure including gyms, spas, malls, and other amenities, and the distinct class of clientele they cater to. According to him, the petitioner hotels represent a distinct commercial ecosystem with superior civic services, and their self-representation as providers of premium hospitality justifies a higher use factor. Such classification, learned senior counsel contends, satisfies the test of intelligible *differentia*

and bears a rational nexus with the objective sought to be achieved. Further, he also points out that star hotels command higher tax rates under other taxing regimes, including GST and entertainment tax.

42. It is also submitted that the rationale provided by the MVC for such classification is sound and legally sustainable. The decision of this Court in the case of ***Harsh Vardhan Bansal*** is reiterated by Mr. Poddar to contend that it is well established that perfection or mathematical precision is not expected in matters of classification under taxing statutes. Moreover, it is submitted that under the DMC Act, graduated property tax can be levied by the MCD keeping in view the economic standing and paying capacity of the taxpayer. Further, reliance is placed on the decision of this Court in ***Harsh Vardhan Bansal***, wherein it was held that "*the tool of taxation aims to impose a proportionate burden on the subjects for the collective benefit of all*". Reliance is also placed on the decision of the Supreme Court in ***S. Kodar v. State of Kerala***,[11] wherein the Court upheld higher taxation on dealers with turnover exceeding Rs. 10 lakhs, stating that such economic superiority justified differentiated treatment.

43. According to Mr. Poddar, the challenge to the UF-10 and the 20% tax rate on star hotels is wholly misconceived and is already *res judicata* by way of the decision in ***Delhi International Airport Pvt. Ltd. v SDMC***[12], wherein it was held that Courts should not interfere with tax rates unless demonstrated to be confiscatory or wholly arbitrary. It is contended that the legislative discretion to fix minimum and maximum slabs within a reasonable range is constitutionally permissible.

44. Furthermore, it is stated that the arguments on behalf of the petitioner-Hotels regarding the definition of the covered area are also

[11] (1974) 4 SCC 422
[12] 2010:DHC:3102-DB

misconceived. According to learned senior counsel, the definition of "covered area" in the Explanation to Section 116E (1) of the DMC Act is inclusive and cannot be narrowly construed to exclude non-FAR areas. Reliance is placed on the decision in ***Kotak Mahindra Bank Ltd. v. MCD***, [13] to contend that the interpretation of inclusive definitions in fiscal statutes must be broad.

45. Mr. Poddar, further, submits that the reliance on the language of Section 116A (f) of the DMC Act to argue that "*star hotel*" is not a listed category is a fallacious averment. He states that the phrase "including" used therein, expands the scope and does not exclude star hotels. In any event, according to learned senior counsel, Clause (j) under the Bye-laws operates as a residuary clause, empowering the MVC to provide for categories not specifically enumerated.

46. Additionally, Ms. Sunieta Ojha also submits that the reliance on Bye-laws for exclusion of areas from property tax computation is legally untenable. She reiterates that Section 116E of the DMC Act provides a self-contained Code. Reliance is placed on the decision in ***Life Insurance Corporation of India v D.J. Bahadur & Ors.***[14], to contend that specific fiscal provisions under a special statute override general regulatory provisions.

47. She also submits that the interpretation offered by the petitioners to Section 116E (4) of the DMC Act is also flawed. It is also pointed out by her that as per Section 115A of the DMC Act, assessment must ordinarily be on the unit as a whole, except where a portion is independently owned and capable of separate enjoyment.

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[13] 2018 SCC OnLine Del 392
[14] (1981) 1 SCC 315

48. Furthermore, Ms. Madhu Tewatia, learned counsel also appearing for MCD in W.P.(C) 3507 of 2022, submits that the instant writ petition is not maintainable in light of the efficacious and adequate alternative remedy available under Section 169 of the DMC Act. She contends that the Supreme Court in ***South Delhi Municipal Corporation v. Today Homes and Infrastructure Pvt. Ltd.***[15] has categorically held that the jurisdiction of the Civil Court is ousted in view of the finality accorded to the orders of the Municipal Taxation Tribunal (*hereinafter referred to as 'the MTT'*) under Section 171 of the DMC Act.

49. I have heard learned counsel appearing for the parties and have perused the record.

50. For the sake of clarity, a table placed on record by the learned counsel appearing for MCD, delineating the various writ petitions forming the subject matter of the present proceedings along with the respective reliefs sought therein, is reproduced hereinbelow: -

DETAILS OF CASES LISTED WITH W.P.(C)-1394/2011

S NO.	***CASE DETAILS***	***PROPERTY DETAIL***	***Under Challenge***	***PARTICULARS***
	The Federation Of Hotels andRespondent V/S MCD ***W.P.(C)-14853-55/2004***	--	*-Challenge to S.116 (E) of the DMC (Amendment) Act, 2003 and the Unit System for assessment of property tax;* *[challenge given up vide order dated:- 10.09.2004]* ***MF-10; rate of tax - 20 %;***	*FHRAI (P-1) is a Sec-25 Company;* *Members details not furnished*
	M/s CHL Ltd. andAnr. v/s M.C.D. andAnr. ***W.P.(C)-17113/2004***	*Hotel Crowne Plaza Surya, New Friends colony, New Delhi.*	*-Challenge to Notification dated 27.02,2004;* *-UF-10, rate of tax - 20 %;*	--
	M/S Eros Resorts	*Plot No.13-A and 13-B*	*-UF-10; rate of tax - 20%,*	--

	andHotel Ltd andOrs *V/S MCD* ***W.P.(C)-1394/2011***	*Mayur Vihar* *District Centre, Delhi*	*-seeking different UF for different parts of the hotel- UF- l for basement, utility area and guest rooms, UF-4 for business centre and restaurant and shopping arcade;*	
	M/S Eros Grand Resorts andHols Ltd &Anr *V/S Dr Brajesh Singh andAnr* ***Cont.Cas(C)-244/2019***	*Plot No.13-A and 13-B Mayur Vihar, Delhi*	*-Demand notice and property tax bill dated 08.03.2019 (for period 2017-18 to 2018-19), alleging violation of order dated 03.03.2011 passed in WP(C) 1394/11*	--
	M/S Eros Grand Resorts andHotels Pvt LtdandAnr *V/S Dr Brajesh Singh andAnr* ***Cont.Cas(C)-245/2019***	*Hotel HOLIDAY INN, Plot No,13-A, Mayur Vihar, Delhi*	*-Demand Notice and the property tax bill dated 08.03.2019 (for period 2017-18 to 2018-19), alleging violation of order dated 07.11.2014 passed in WP(C) 9069/12*	--
	M/S Eros Resorts andHotels Pvt Ltd &Anr *V/S Dr Brajesh Singh andAnr* ***Cont.Cas(C)-250/2019***	*Hotel Crowne Plaza, Plot No. 13-B, Mayur Vihar District Centre, New Delhi*	*-Demand Notice and the Property Tax Bill dated 15.03.2019(for period 01.04.17 to 31.03.2019);* *-Alleging violation of order dated 07.11.2014 passed in WP(C) No. 8069/2012*	
	M/S Eros Resorts andHotels Pvt Ltd andAnr V/S Dr Brajesh Singh andAnr ***Cont. Cas(C)-252/2019***	*13-B Mayur Vihar* *District Centre,*	*-Alleging violation Of The Order Dated 03.03.2011 Passed In WP(C) 1394/2011.*	*Assessment order dated: 15.03.2019 for period (2017-18 to 2018-19)*
	Lodhi Property Co.Ltd. *V/S Union Of India andOrs.* ***W.P.(C)-***	*'Hotel Aman', 27, Lodhi Road, New Delhi*	*-Challenge to amendments in the DMC Act, 2003, DMC Bye Laws 2004;* *-UF-10 andRate of tax-20%;*	--

	4505/2011			
	Lodhi Property Co. Ltd *V/S SDMC* ***W.P.(C)-1876/2013***	*'Hotel Aman', 27, Lodhi Road, New Delhi*	*-Notices /orders dated 12.3.2013, 04.04.2012 (for period 2004-05 to 2011-12), 19.9.2012, 12.12.2012 and 19.3.2013,* *-Seeking for UF- 4 and exclusion of basements and the utility area for calculation of Property Tax*	--
	M/S Piccadily Hotels (P) Ltd V/S Lt. Governor of Delhi andAnr. ***W.P. (C) No. 3431/2012***	*Hilton Hotel, Janakpuri Distt. Centre, New Delhi*	*-Challenge to UAM andUF,* *-Demand Letter dated 12.03.2012 (for period 2004-05 to 2011-12) and. 30.03.2012, Demand Letter dated 07.05.2012 demanding Rs. 5,48,59,039*	--
	Today Hotels (New Delhi) Pvt Ltd V/S Union Of India andOrs ***W.P.(C)-3692/2012***	*Plot No. 1, Community Centre, Okhla Ph-1, New Delhi*	*-Challenge to Act no. 6 of 2003- and bye-laws, 2004,* *-Challenge to UF andRate of tax,*	*Assessment order dated 13.04.2012 (for period 2006-07 to 2011-12)*
	M/S Tirupati Infra Projects Pvt. Ltd. V/S NDMC andAnr ***W.P.(C)-6654/2013***	*Plot No. D, District Centre, Paschim Vihar, New Delhi,*	*-Challenge to UAM, UF-'10'; Explanation to S. I23B (6) of the DMC Act;* *-Assessment Order and Warrant of Distress dated. 18.03.2013 (for period 2010-11 to 2012-13);*	--
	M/S Jaksons Developers Pvt. Ltd. v/s NDMC ***W.P.(C)-7804/2013***	*Plot No.3B1, Twin District Centre, Sector-10, Rohini, Delhi-110085,*	*-UF-10 for star hotel;* *-Notice/Order dated 04.10.2013, Assessment Order dated 02.12.2013 (for the period- 2008-09 and 2012-13);* *-Seeking direction to exclude the Basement /Parking Area from covered area;*	--

	M/S Tirupati Buildings And Offices (P) *Ltd v/s SDMC andOrs* ***W.P.(C)-2252/2013***	*Plot No.3, Sector-10, Dwarka, New Delhi*	*Section 123B(6), Section 152 Section 123B(9) andSection 155(2) and Section 170(b),* *Assessment Order dated 04.02.2013 (for period 2008-09 to 2012-13), notice dated 20.02.2013, show cause notice dated 20.02.2013, Notice under Section 123D dated 21.03.2012,* *appointment of Respondent No. 4;*	--
	M/S Mahagun Hotel Pvt. Ltd. V/S EDMC ***W.P.(C)-74/2014***	*Plot No.32,* *Central Business District, Shahdara, Delhi*	*UF- 10,* *seeking refund of property tax by UF- 1O, and refund property tax from 11.02.2011 to 01.06.2012,* *challenging inclusion of Basement/Parking Area into covered area ;*	*Assessment Order 19.12.2024* *(for period 11.02.2011 to 31.05.2012)*
	M/S Hyacinth Hotels (P) Ltd. V/S SDMC and Ors ***W.P.(C)-1260/2014***	*No. 6, LP - 1A, Aerocity, IGI* *Airport, Mahipalpur Extn., New Delhi*	*S. 170(b) of the Act 2003, Bye-Laws No.,* *Assessment Order dated 23.12.2013 (for period 2009-10 to 2013-14) andDemand of Rs. 68,19,782/-;*	--
	Advent Hospitality Private Ltd andAnr. V/S SDMC andOrs. ***W.P.(C)-2537/2014***	*No:A-3 andA-IB in the layout plan of District* *Centre Saket, New Delhi*	*Assessment Order and Property Tax Bill dated 28.03.2014 (for period 2009-10 to 2013-14),* *Assessment Order dated 28.10.2013, property tax bill dated 29.10.2013, Notices under Section 123D Act dated 19.09.2013, 07.10.2013, 20.11.2013, 06.03.2014 and Show Cause Notice dated 20.01.2014 .,* *Challenging explanation to S.123B(6), S. 152, S. 123B(9) and S. 155(2) and S. 170(b) andseeking refund of with interest @ 18% p.a.*	--

	Divine Infracon Pvt Ltd *V/S SDMC andOrs* ***W.P.(C)-1672/2014***	*Hotel Raddison Plot No. 4, Sector- 13, dwarka*	*Challenging Explanation to Section 123 B(6), Section 152 S. 123 B(9) 85 Section 155(2) and Section 170(b) of the DMC Act,* *Assessment Order dated 21.01.2014 (for period 2009-10 to 2013-14) and show cause dated 06. 03.2014;*	--
	Aria Hotels And Consultancy Services Pvt. Ltd V/S SDMC *andOrs.* ***W.P.(C)-1792/2014***	*Asset No.4, Delhi* *Aerocity, New Delhi.*	*-Challenge to MCD's power to levy property tax on the subject Property,* *-notice dated 22.05.2013, Assessment Order dated 23.12.2013 (for period 2009-10 to 2013-14), demand notice dated 31.12.2013 for a sum of Rs.1,76,63,340*	--
	Wave Hospitality Pvt. Ltd. V/S SDMC andOrs ***W.P.(C)-2441/2015***	*Holiday Inn Hotel andResorts, Asset No. 12. Hospitality District. Aero City, Delhi International Airport New Delhi*	*-Section 170(b), Bye- Law No. 14* *-Seeking no vacant land tax till date of grant of completion certificate be charged,* *-UF-10, tax rate- 20%,* *-Assessment Order dated 22.12.2014 (for period 23.06.2009 to 2014-15), Demand of Rs. 1,67,18,218/-*	--
	The Indian Hotels Co Ltd V/S SDMC andAnr ***W.P.(C)-2546/2019***	*Vivanta by Taj, Hotel Building of IHCL at Sector-21, Metro Station Complex, Dwarka, New Delhi*	*-Demand Notice dated 15.02.2019, Assessment Order dated 13.02.2019 (for period- 2008-09 to 2018-19),* *letter dated 06.02.2019 and MoM dated 01.02.2019*	--
	Caddie Hotels Pvt Ltd *V/S SDMC*	*Asset Area No. 2,Caddie Hotel,*	*-Challenge to S.170(b), Bye law no.l4* *-seeking no vacant land*	--

	W.P.(C)-226/2020	*Hotel Pullman/Novotel Plot No.2,CP-lA,Aerocity IGI* *Airport, New Delhi110037 ,*	*tax be charged* *-UF- 10, tax rate- 20% ,* *-Assessment Order dated 19.11.2019, Demand Notice dated 20.11.2019 and Corrigendum dated 17.12.2019, Demand Rs. 10,23,08,149/-and the revised demand INR Rs. 30,17,35,393;*	
	Interglobe Hotel Pvt Ltd V/S SDMC ***W.P.(C) 227/2020***	*Asset Area No. 9, IBIS , Aerocity IGI Airport, New Delhi-110037,*	*-S. 170(b), Bye law no.l4* *-seeking no vacant land tax be charged* *-UF- 10, tax rate- 20%* *-Assessment Order dated 19.11.2019 (for period 2013-14 to 2018-19), Demand Notice-20.11.2019 and Corrigendum dated 17.12.2019 and Demand Rs. 3,22,87,005/- and the revised demand Rs. 9,54,27,322/-;*	--
	PRIDE HOTELS LTD *V/s SDMC andORS* ***W.P.(C)-6549/2020***	*5A, Aerocity,* *IGI Airport, New Delhi-110037,*	*-Challenge to Notice dated 01.08.2016, 06.03.2020, Assessment Order dated 20.03.2020 (for the period 2015-16 to 2019-20) and Demand of Rs. 10,69,96,639/-* *-Challenge to inclusion of basements, mezzanine floors and stilts meant for parking and Non FAR from Covered area ;* *-Not the primary person/entity liable for payment of property tax assessable as vacant land tax, - UF- 10, tax rate of 20%,* *categorization of the area as property held to be in Mahipalpur Extension, the same is to be assessed in the area Nangal Dewat;*	--
	Bird Airport Hotel Pvt.Ltd	*Asset Area No.10*	*-Notice dated 17.01.2020, Assessment Order dated*	--

	V/S SDMC *andOrs* ***W.P.(C)4459/2020***	*Aerocity* *IGI Airport, New Delhi-110037,*	*11.03.2020 (for period 2016-17 to 2019-20) and Demand for Rs. 2,72,95,185,* *-Assessment Order dated 20.03.2020 and Demand of Rs. 8,19,77,192/* *-Challenge to Inclusion of basements, mezzanine floors and stilts meant for parking and Non FAR in covered area* *Challenge to imposition of vacant land tax anddemand for refund,* *-UF- 10,tax rate -20% ;*	
	DMRC Ltd. v/s SDMC andAnr. ***W.P.(C)-4956/2021***	*5-Star Hotel of Taj Group at Dwarka*	*-Assessment Order dated 18.02.2021 (for period 2017-18 to 2020-21), Demand Letter dated 19.02.2021 and Warrant of Distress dated 26.03.2021 and 06.04.2021;*	--
	Delhi Metro Rail Corporation Ltd V/S SDMC andAnr ***W.P.(C)-3507/2022***	*Taj Vivanta Hotel,* *Dwarka, Sector 21, Metro Station Complex, New Delhi*	*-Assessment Order dated 01.10.2021 (for period 2017-18 to 2020-21); Demand Notice dated 04.10.2021, 25.11.2021 and Show Cause Notice dated 12.01.2022 and10.02.2022,* *-Seeking compliance of M.O.M's dated 23.03.2011; 01.02.2019 and 26.04.2019.* *-Seeking UF for Hotels based on location,;* *-Challenge to Bye – Law 4, vacant land tax andMVCIII report*	--
	Central Park Infrastructure *Development Pvt Ltd* *V/S MCD andOrs*	*Asset Area No.* *5B, Aerocity IGI Airport, New Delhi-*	*-Challenge to Notice dated 12.02.2018, 23.02.2018 01.01.2020 andAssessment Order dated 18.03.2020 (for period 2016-17 to 2019-20) and Demand letter dated 19.03.2020,of Rs. 5,38,67,917/-*	--

	W.P.(C)-3948/2023		*-Challenge to inclusion of basements, mezzanine floors and stilts meant for parking and Non-FAR areas in covered area ,* *Not the primary person/entity liable for payment of property tax assessable as vacant land tax,* *UF- 10, tax rate of 20%,;* *-Challenge to categorization of the area in Mahipalpur Extension and not as per area Nangal Dewat.*	

51. It is evident from the record that the petitioners, apart from mounting a general challenge to the classification of star-rated hotels as a distinct category for taxation and the imposition of UF-10 coupled with a 20% property tax levy, have also impugned several individual assessment orders issued by the MCD. In this context, it is pertinent to refer to the decision rendered by this Court in ***Harshvardhan Bansal***, wherein it has been observed that adjudication of such claims would invariably necessitate a fact-intensive scrutiny in each case. The Court held that in the absence of complete factual records pertaining to each individual property and assessment before the Court, it would be inappropriate to render any definitive finding at this stage. Furthermore, it was also noted that the statutory scheme under Section 169 of the DMC Act provides for an alternate remedy to approach the MTT, if any person is aggrieved by an order of assessment and consequential demand. Accordingly, it is incumbent upon the petitioners, insofar as their challenge pertaining to the individual assessment orders is concerned, to first avail and exhaust the remedy of approaching the MTT. Thus, the Court restricts the adjudication in the instant *lis* to only the legal issues and grants liber

the parties to agitate the remaining issues as per the extant mechanism as provided under the DMC Act. Further, it is also clarified that the rights and contentions of the parties with respect to the issue *sub judice* in W.P.(C) 831 of 2019, as submitted by Mr. Johri and Mr. Nayar, are left open.

52. Thus, upon careful examination of the rival submissions and the material on record, it is seen that the following broader issues emerge for consideration: -

(i) Whether the imposition of a uniform UF-10 and a 20% property tax rate on hotels classified as 3-star and above, particularly when such classification is based on voluntary star ratings, violates Article 14 of the Constitution being arbitrary?

(ii) Whether inclusion of non-FAR, non-revenue spaces like basements and stilts in 'covered space' for the calculation of property tax is ultra vires Section 116 E of the DMC Act?

(iii) Whether the recommendations of MVC, as adopted by the MCD, were consistent with the procedural mandate provided under Sections 116A to 116C of the DMC Act?

Issue No. (i)

53. The principal submission raised on behalf of the petitioners is that the classification of hotels based on the star ratings conferred by the Ministry of Tourism (*hereinafter referred to as 'MoT'*) lacks statutory backing and violates the parameters enumerated under Section 116A of the DMC Act. It is vehemently contended that the said star ratings are intended merely to further promotional or branding objectives and are

entirely voluntary in nature. In the absence of any demonstrable and rational correlation with the burden on civic infrastructure or the economic determinants envisaged under the DMC Act, such ratings cannot, by themselves, constitute a legitimate basis for assessment of municipal tax liability.

54. Contrarily, MCD has contended that such classification satisfies the dual tests of intelligible *differentia* and rational nexus with the objective sought to be achieved, as the star hotels form a separate and reasonable class by virtue of their economic superiority, higher tariffs, integrated infrastructure, and other amenities. Thus, as contended, the tests of Article 14 of the Constitution are duly satisfied.

55. In order to examine whether such classification of hotels as per the star rating, for the purposes of levy of property tax, satisfies the rigour of Article 14 of the Constitution and comes under the exception of reasonable classification, a meticulous delineation of the provisions of the DMC Act is required.

Legislative Framework of Classification under the DMC Act

56. Section 116A of the DMC Act provides a structured framework for the classification of properties by the MVC. The aforementioned section is extracted herein for reference:

> "*The Municipal Valuation Committee shall recommend the classification of the vacant lands and buildings in any ward of Delhi, referred to in section 5, into colonies and groups of lands and buildings after taking into account the following parameters:*
> *(a)settlement pattern such as plotted housing, group housing, colony with flats only, urban village, unauthorised colony, resettlement colony, rural village and non-residential areas;*
> *(b)availability of civil and social infrastructure;*
> *(c)access to roads;*
> *(d)access to district centres, local shopping centres, convenience-shopping centres, and other markets;*
> *(e)land prices as may, from time to time, be notified by the [Government] [Substituted by Delhi Act 12 of 2011, section 2(b),*

"Central Government" (w.e.f. 13-1-2012).] or the Delhi Development Authority;

(f)use-wise category of any building including residential building, business building, mercantile building, building for recreation and sports purposes, industrial building, hazardous building and public purpose building including educational, medical and such other institutional building and farmhouse, as may be specified by [a Corporation;] [Substituted by Delhi Act 12 of 2011, section 2(a), "for the Corporation" (w.e.f. 13-1-2012)]

(g)in the case of buildings used for business, mercantile, recreation and sports, industrial, hazardous, storage or farmhouse purposes, the location of such buildings adjacent to such categories of streets, as may, subject to the provisions of sub-section (2), be specified by [a Corporation] [Substituted by Delhi Act 12 of 2011, section 2(a), "for the Corporation" (w.e.f. 13-1-2012)];

(h)the types of buildings which may be classified as pucca, semi-pucca or katcha, as may be specified by [a Corporation] [Substituted by Delhi Act 12 of 2011, section 2(a), "for the Corporation" (w.e.f. 13-1-2012)];

(i)the age-wise grouping of buildings as may be specified by [a Corporation] [Substituted by Delhi Act 12 of 2011, section 2(a), "for the Corporation" (w.e.f. 13-1-2012)]; and

(j)such other parameters as may be considered relevant by the Municipal Valuation Committee.

(2)The Municipal Valuation Committee shall recommend, group wise,

(a)the base unit area value of any owner-occupied vacant land, or any wholly owner-occupied building of pucca structure, constructed in the year 2000 or thereafter, and put to exclusive residential use, and

(b)the factor for increasing or decreasing, or for not increasing or decreasing, the base unit area values specified in clause (a), separately in respect of each of the parameters of type of colony, use, age, type of structure and occupancy status of the vacant land or building, as the case may be, subject to a lower limit of zero point five and upper limit often point zero."

57. Under the aforenoted provision, MVC has been empowered to recommend the classification of vacant lands and buildings within each ward of Delhi into distinct colonies and groups. The classification so recommended is to be based on a diverse set of parameters, including settlement pattern, availability of civic and social infrastructure, road access, proximity to commercial centres, government-notified land prices, (f)use-wise category of the building (residential, mercantile, industria

etc.), street categorization, type and age of structures, and such other factors as deemed relevant by the MVC. It is noteworthy that the list of parameters is not exhaustive, and the statutory leeway of MVC to take into account such other factors as may be deemed relevant, is not curtailed.

58. Pursuant to the functions and powers enshrined in the legislation, the Expert Committee, constituted for the purpose of recommending a fair and rational basis for determining base unit area values under the area-based property tax system, undertook a detailed study of classification principles adopted by the civic bodies in other Indian cities, such as Ahmedabad and Patna. However, the Committee found that these models were unsuitable for Delhi due to various inherent limitations.

59. Specifically, the Patna Municipal Corporation's classification based on street width was considered unfit for Delhi, as it would give rise to disputes and discretionary interpretations, particularly in the case of corner plots or properties abutting multiple roads. Furthermore, the existence of long arterial roads with varying property values along their lengths, and the address system of Delhi being based on colony nomenclature rather than street names, made such a system unworkable. Additionally, the Committee observed that properties located on main roads in residential areas may face disadvantages such as noise and traffic, contrary to the assumption of premium valuation.

60. The Ahmedabad model, which classifies the city into four zones based on land values, was similarly deemed inapplicable to Delhi. The Committee noted that Delhi suffers from a lack of reliable transaction data and a distorted property market, where sale transactions are often unrecorded or inaccurately recorded, and rental values are frequently under-reported. Hence, sole reliance on average land or rental values

considered inadequate for forming groups.

61. Instead, the Committee concluded that a comprehensive approach reflecting the overall development of a colony was necessary. This included evaluating physical infrastructure, the availability of social services, the economic profile, and the paying capacity of residents. It was further held that classification based on a multiplicity of factors would reduce the impact of potential distortion arising from the misapplication of any single factor, thereby enhancing objectivity and fairness.

62. In consonance with the aforesaid approach, in its meeting held on 27.09.2002, the Expert Committee constituted a Sub-Committee to classify all colonies/ land under the jurisdiction of MCD.

63. The terms of reference for the Sub-Committee included formulating general principles for classification based on available data on capital values, rental values, and other relevant factors, evaluating development levels and municipal services, grouping colonies and lands into a reasonable number of homogeneous categories, and suggesting appropriate multiplicative factors for different types of colonies and lands, including urban villages, unauthorized colonies, and rural areas.

64. On 27.10.2002, the Sub-Committee submitted its report. A classification matrix was developed using ten factors, including average capital and rental values, infrastructural facilities, road and market access, and socioeconomic profile. Grade points were assigned to each factor, converted to a composite score, and used to categorize colonies into seven grades from A to G.

65. The proposed classification was published in leading newspapers for public feedback, with the last date for submission of suggestions and objections initially set as 31.10.2002, later extended to 15.09.2002.

66. More than 2000 representations were received, examined by a

Force led by the Chief Town Planner of MCD. The Task Force's recommendations on modifications to the classification were again published widely. Based on the deliberations of the Expert Committee in its 8th meeting, and the inputs of the Sub-Committee and the Task Force, a final ward-wise list of colonies with their respective classifications was prepared.

67. The expert committee, in its report dated 31.01.2003, made several notable observations with respect to the use factor for non-residential properties. Their analysis revealed considerable inconsistencies in the unit area tax rates applied to commercial properties. For instance, properties falling under Category 'E' were found to be paying the highest unit rates of tax than those in Categories 'A' and 'B'. Interestingly, Category 'F' properties were paying even less than those in Category 'G', further highlighting anomalies in the tax burden distribution. Even within a single category, the tax paid per square foot varied widely, underscoring the lack of standardization and the prevalence of under-assessment.

68. The committee also studied the disparity in taxation across different types of commercial use. The data showed that cinemas were taxed at the lowest rate of approximately Rs. 9.19 per sq.ft., while hotels were taxed at a much higher rate of Rs. 50.79 per sq.ft. Notably, markets and shops were taxed at a relatively low rate of Rs. 20.42 per sq.ft., compared to offices which were taxed at Rs. 37.6 per sq.ft.

69. To address these disparities, the committee recommended a rationalized and uniform use factor system that could be applied consistently across property types and usage categories. The proposed framework introduced standard UF to be multiplied with the CF in determining the final annual value for tax purposes.

70. The recommendations made by the expert committee were

follows: (i) properties for recreational uses, schools, and educational institutions should be assigned a UF- 3 (ii) public utilities, a UF-4; (iii) hospitals, nursing homes, and industrial properties, a UF- 6; and (iv) business offices and mercantile establishments, a UF- 8. The highest UF–10 was reserved for star hotels and banks, reflecting their commercial profitability. Public purpose buildings, particularly those offering non-profit services such as education and healthcare, were recommended to be taxed at the same rate as residential properties.

71. Following the submission of recommendations by the Expert Committee, the MVC-I was constituted pursuant to a Government Order dated 28.10.2003. The MVC-I was tasked with making final recommendations on the classification of colonies, fixation of base unit area values, and determining applicable multiplicative factors, while also considering the objections received in response to the public notice issued earlier by the Corporation.

72. Recognizing the constraints of time and the extensive work already undertaken by the Expert Committee, the MVC decided to proceed tentatively on the basis of the proposals of the MVC. A public notice was issued on 30.10.2003 inviting comments on the proposed classifications, values, and factors. Nearly 600 representations were received in response to the public notice. In a bid to ensure transparency and inclusivity, the MVC resolved to consider all suggestions received.

73. MVC-I undertook a comprehensive consultative process, organizing multiple public hearings and stakeholder meetings, including with resident welfare associations, trade bodies, and sectoral interest groups. To objectively assess the specific concerns raised, the Committee arranged field inspections for verification of facts and referred several cases to the Chief Town Planner. It also drew upon data from the offi

the Assessor & Collector regarding land use patterns, covered area, and revenue collection to inform its deliberations.

74. In its interim report dated 31.12.2003, the MVC-I endorsed the Expert Committee's approach of classifying colonies into categories A to G and added a new category 'H' for rural villages. Category 'D' was chosen as the baseline for determining the base unit area value, set at Rs. 320 per square metre, with adjustments of +25% for higher categories and -15% for lower ones. The final unit area values ranged from Rs. 630 per sq.m. (Category A) to Rs. 100 per sq.m. (Category H). Additional parameters such as rental values, socio-economic profiles, and geographical positioning were also incorporated to rationalize classifications.

75. More importantly, MVC-I heard the representatives of the Hotel and Restaurant Association of Northern India, who argued that hotels typically have large public areas, such as lobbies, and significant service areas, including kitchens and laundry facilities. They suggested that the tax under the new system should be limited to the covered areas occupied by the rooms available for letting. The representatives further contended that the proposed tax under the new system, especially for star hotels, which is calculated using the UF-10, would place an unsustainable financial burden on them. This, they argued, would make them internationally uncompetitive and also less competitive compared to hotels in the NDMC area within Delhi. In response to these concerns, the Committee, after considering the submissions of the association, recommended a UF-5, instead of the initially proposed UF-10, for star hotels.

76. Notably, the MVC-I, in its interim report, revised the categorization of non-residential property uses, reducing them from ten to five simple

categories to streamline tax administration. These included: (1) Public purpose uses (UF-1), (2) Utilities and recreation (UF-2), (3) Industrial uses (UF-3), (4) General business uses such as offices, hotels, shops, and restaurants (UF- 4), and (5) Star hotels, telecom towers, and hoardings (UF -5).

77. However, the final report of the MVC-I included a critical reassessment of the UF, particularly in light of objections raised after its interim recommendations. Initially, the MVC had proposed significantly reduced UFs compared to those of the Expert Committee. However, while members of the public still viewed these reduced UFs as excessive, the Assessor and Collector of the MCD raised a formal protest, asserting that the lowered values would severely impact revenue collected from existing non-residential properties.

78. After a comprehensive review of all submissions and revenue data presented, the MVC-I ultimately proposed the following revised use factors:

I. *Public purposes: UF = 1*

II. *Public Utilities: UF = 2*

III. *Industry, Entertainment, Recreation, and Clubs: UF = 3*

IV. *Business, Restaurants, Hotels up to 2-Star: UF = 4*

V. *3-Star and above Hotels, Towers and Hoardings: UF = 10*

79. Keeping in view the aforesaid background, the classification done by the expert committee has to be tested on the anvil of Article 14 of the Constitution.

Test of Reasonable Classification under Article 14 of the Constitution

80. Article 14 of the Constitution guarantees equality before the law and equal protection of the law. It prohibits discrimination by the State,

ensuring that all individuals are to be treated equally in similar situations. The underlying idea of constitutional equality is equal treatment of equally placed persons. However, our constitutional scheme and jurisprudence are sensitive to pragmatic concerns and reserve due space for necessities, which may require classification of certain persons for different treatment. Such classification by the State and its instrumentalities is permitted, however, it has to be justiciable.

81. The fundamental criterion for evaluating the constitutionality of any legislative classification under Article 14 of the Constitution lies in the classic doctrine of reasonable classification. This doctrine rests upon two inseparable conditions, generally known as the twin or dual test, i.e.: -

a) Firstly, the presence of an intelligible *differentia* that sets apart those who are grouped within the classification from those who are excluded;
b) Secondly, a rational nexus between the classification and the purpose intended to be achieved by such classification.

82. Article 14 of the Constitution eschews class legislation but accommodates legislative classification, provided it adheres to constitutional parameters of reasonableness, fairness, and non-arbitrariness. This exception takes inspiration from the Aristotelian logic that all persons similarly circumstanced should be treated alike, and differential treatment must be justifiable in terms of purpose and method.

83. The Supreme Court, over the years, has crystallized this principle into a canon of constitutional review. This Court in ***Harshvardhan Bansal***, upon an extensive review of various precedents and decisions rendered by the Supreme Court, reaffirmed that the constitutional mandate of Article 14 of the Constitution is anchored in the doctrine of reasonable

classification. The Court reiterated that any legislative or executive differentiation must satisfy a twin test. Drawing upon the seminal exposition in ***D.S. Nakara v. Union of India***[16], it was held that Article 14 of the Constitution strikes not at classification per se, but at class legislation and invidious discrimination.

84. The Court reiterated that perfect equality is neither envisaged in the Constitution nor required. Rather, classifications based on real and substantive distinctions, reasonably allied to statutory purpose, are permissible. Endorsing the position elucidated in ***Rajbala v. State of Haryana***[17], the Court acknowledged that legislative classification, even if it engenders incidental inequality, would withstand constitutional scrutiny if it flows from a legitimate policy rationale.

85. Simultaneously, the Court adverted to the doctrinal evolution marked by the emergence of the test of "manifest arbitrariness," rooted in the proposition that arbitrariness is the antithesis of equality. It was observed that any legislative or executive measure that is capricious, irrational, or devoid of any discernible principle would be constitutionally dubious under Article 14 of the Constitution. The relevant extract of the decision in ***Harshvardhan Bansal*** reads as under: -

> *"A glance over the well settled jurisprudence on Article 14 would evince that the thrust of permissible classification rests on an intelligible differentia which distinguishes persons or things that are grouped together from others, left out of the groups, and the differentia therein, must have a rationale nexus to the object sought to be achieved by the Statute in question. In case of permissible classification, mathematical nicety and perfect equality may not be desirable to be reckoned. One of the earliest authoritative referencesbwith respect to the extent and scope of Article 14 of the Constitution of India can be gainfully found in the case of D.S. Nakara and Ors. v. Union of India17, wherein, the Supreme Court has emphatically noted as under:-*

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16 (1983) 1 SCC 305
17 (2010) 2 SCC 445

—11. The decisions clearly lay down that though Article 14 forbids class legislation, it does not forbid reasonable classification for the purpose of legislation. In order, however, to pass the test of permissible classification, two conditions must be fulfilled, viz. (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group; and (ii) that that differentia must have a rational relation to the objects sought to be achieved by the statute in question [See Shri Ram Krishna Dalmia v. Shri Justice S.R. TendolkarandOrs.5]. The classification may be founded on differential basis according to objects sought to be achieved but what is implicitin it is that there ought to be a nexus, i.e. casual connection between the basis of classification and object of the statute under consideration. It is equally well settled by the decisions of this Court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure.

42. The rigor of law with respect to the aforesaid facet of equality ripened with the passage of time through a catena of judicial pronouncements and the Supreme Court, in the case of KR Lakshman v. Karnataka Electricity Board18, has eloquently held that the Court has to apply dual test i.e., whether the classification is rational andbased upon an intelligible differentia, which distinguished persons orthings that are grouped together from others and whether the basis ofdifferentiation has any rational nexus or relation with its avowedpolicy and objects.

43. In the same vein, reliance can be placed on a decision in the case of Saurabh Chaudri and Ors v. UOI and Ors.19, wherein, the principle of intelligible differentia was held to be pivotal in reasonably classifying groups of shared characteristics, as distinguished fromother groups and such classification is justified, if it is aligned with the intended purpose sought to be achieved.

44. The twin test of reasonable classification and rationale nexus has also recently been applied by the Supreme Court in the case of Rajbala v. State of Haryana20, wherein, the Court upheld the rationality of classification of five categories of persons, who were barred from contesting panchayat elections finding that the said classification was reasonable.

45. It is also pertinent to lend credence on the decision in the case of State of Bombay v. FN Balsara21, wherein, the Supreme Court took a view that every classification, to some degree, is likely to produce some inequality, and mere production of inequality is not enough. further noted that the presumption is always in favour of the constitutionality of the enactment since it must be assumed that the legislature understands and correctly appreciates the need of its own people and the discrimination is based on adequate grounds.

46. Reliance can also be placed on the decision in the case of RKGarg and Ors. v. Union of India22, wherein, it has been held that the presumption of constitutionality is enhanced in the case of

> *law of taxation and laws regulating economic activities as these laws are conventionally understood to be the matters of policy which have been arrived at after due deliberations of the adept professionals. Therefore,only because there may be a probability of a better classification, it cannot be a ground to strike down policy for infringing fundamental right to equality.*
>
> *47. Another test which has evolved over the course of time is the test of manifest arbitrariness. The foundation of this test lies in the fact that equality and arbitrariness cannot co-exist. An arbitrary action,which is neither based on reason nor on fair-play, essentially results in the propagation of inequality. In the facts of the present matter ,however, there appears to be no reason to apply the tests in isolation as the primary question involved in the matter is with regard to the validity of a classification"*

86. Thus, as seen from the legal explication of the doctrine of classification enshrined under Article 14 of the Constitution in ***Harshvardhan Bansal***, for a classification to withstand constitutional scrutiny, it is incumbent that such classification adheres to the settled dual criteria i.e. (i) it must be predicated upon an intelligible *differentia* that distinguishes those who are grouped together from others left out of the fold; (ii) such *differentia* must bear a rational and proximate nexus to the object sought to be achieved by the legislation in question. The legitimacy of classification and the legitimacy of object both are required to align with the principles of constitutional morality. In addition to satisfying the test of reasonable classification, the impugned measure must also be examined on the touchstone of non-arbitrariness, as arbitrariness is inherently antithetical to the principle of equality.

87. Accordingly, a legislative or executive measure is more likely to satisfy the mandate of Article 14 of the Constitution if it is based on clear and logical reasoning, backed by relevant facts and policy objectives, and formulated within a consistent and transparent legal framework. Having said that, it must also be kept in mind that the concept of judicial review is not meant to supplant one policy with the other and therefore, unless the

policy runs in violation of Part-III of the Constitution or is beyond the legislative competence, it could not be held to be violative of the Constitution merely because an alternate policy is found to be more desirable by the Court. The Court is not supposed to be a parallel legislative body.

88. In the context of the aforesaid legal position, it is pertinent to take note of the decision in the case of ***Vinod Krishan Kaul***, wherein one of the arguments advanced by the petitioners therein was that by virtue of Section 116A of the DMC Act, MVC has been given unanalysed and arbitrary power in recommending the classification of vacant lands and buildings in any ward of Delhi into colonies and groups of lands and buildings. It was argued therein that certain provisions, particularly Section 116A(1)(j) of the DMC Act empowered MVC to take into account ominous parameters, which were not even spelled out in the DMC Act or were not even in the contemplation of the legislature, while making its recommendations regarding classification of vacant lands and buildings into colonies and groups of land and buildings. While dealing with the aforesaid argument, the Court placed reliance on a decision of the Supreme Court in the case of ***Anant Mill Company Ltd. v. State of Gujarat***[18] and in paragraph no.49 of the said decision, held that the categorisation of colonies/area/localities in Delhi into different categories is to be carried out keeping in mind the parameters as specified in Clauses (a) to (j) of Section 116A(1) of DMC Act. The Court further observed that for arriving at the BUAVs and the multiplicative factor, clear guidelines have been prescribed and therefore, the provisions of Section 116A and other related provisions cannot be regarded as arbitrary or contrary to Article 14 of the Constitution. Paragraphs No. 41 to 49 of the decision in

Vinod Krishna Kaul, the following pertinent observations have been made: -

> *"41. These parameters fall within the scope of permissible classification. In taxation matters, a narrow approach to classification should not be adopted as in the words of the Supreme Court, 'the power of the legislature to classify is of wide range and flexibility so that it can adjust its system of taxation in all proper and reasonable ways'*
>
> *.42. A point had been raised that clause (j) of section 116A(1) ["suchother parameters as may be considered relevant by the Municipal Valuation Committee"] is open-ended and leaves unguided and un-canalised discretion with the MVC. We do not agree with this submission for the simple reason that the said clause (j) is not to be read in isolation but in conjunction with the other clauses fromwhich it will take colour*
>
> *.43. Sub-section (2) of section 116A requires the MVC torecommend, groupwise, (a) the base unit area value of any owneroccupied vacant land, or any wholly owner-occupied building of15 (1975) 2 SCC 175- 51 -pucca structure, constructed in the year 2000 or thereafter, and putto exclusive residential use, and (b) the factor for increasing ordecreasing or for not increasing or decreasing, the base unit areavalues in respect of each of the parameters of type of colony, use,age, type of structure and occupancy status of the vacant land orbuilding as the case may be, subject to a lower limit of zero pointfive and upper limit of ten point zero*
>
> *.44. Once the MVC makes its recommendations, the MCD, by virtue of section 116B, is required to declare its intention to classify vacant lands and buildings in each ward into such colonies and groups of lands and buildings as the MCD may, by public notice,specify. The MCD is also required to specify, in such public notice, the base value it proposes to specify per unit area of vacant land and per unit area of covered space of buildings within each such group and also the factors for increasing or decreasing, or for not increasing or decreasing, the base unit area values of vacant lands and buildings. In terms of section 116B(2), if any representation is received by MCD, pursuant to the public notice, from any group in any colony, the MCD is required to refer the representation to the MVC for reconsideration. The decision of the MVC thereon, subject to the provisions of section 116K, is binding on the MCD.*
>
> *45. Section 116C also enables any owner or occupier of any vacantland or building to submit his objection regarding -- the*

manner of classification of any group or groups, the base value per unit areaof vacant land or the base value per unit area of covered space of buildings in any group and/or the multiplicative factors specified inSection 116A(2)(b) - to the MCD within 30 days from thepublication of the public notice. Any such objection has to be considered by the MVC and that, too, after giving the objector an opportunity of being heard as per the prescribed procedure. Once all this is done and 30 days have expired from the date of publication of the public notice under section 116B and the recommendations of the MVC on the objections are considered, theMCD is required by section 116C(3) to issue a public noticespecifying, groupwise, the base unit area value of vacant land andthe base unit area value of covered space of buildings and thefactors referred to in section 116A(2)(b). The proviso to section 116C(3) stipulates that the MCD shall not alter the unit area values recommended by the MVC without approval of the Government.

46. Ultimately, section 116D(1) stipulates that, subject to the provisions of section 169, the base unit area value of vacant land and base unit area of covered space of buildings in any group, as specified under section 116C(3), shall be final. And, section 116D(2) requires that the MCD shall publish the final base unit area values and the multiplicative factors.

47. It is in this manner that the UAV (unit area value) and the multiplicative factors -- AF (Age Factor), OF(Occupancy Factor), UF (Use Factor) and SF (Structure Factor) -are determined and notified to the public at large. As indicated in- 52 -the counter affidavit filed on behalf of the MCD in WP(C) No. 8030of 2003, all these steps were followed. It is also stated therein that the MVC constituted under section 116 had considered the objections received pursuant to the public notice dated 03.01.2004issued by the MCD and had even recommended changes after giving the objectors opportunity of hearing. It is also stated that the classification of colonies/areas/localities is based on the parameters prescribed under the Act.

48. It is pertinent to note that the classification exercise conducted by the MVC has resulted in eight(8) categories (A to H) in which colonies/ areas/ localities in Delhi have been placed. Each of these categories has been prescribed a UAV, ranging from 630 per sq.m for Category A to 100 per sq.m.for Category H. The Age Factor (AF) ranges from 0.5, for covered spaces constructed prior to 1960, to 1, for covered spaces constructed in 2000 and thereafter. As regards the Occupancy Factor (OF), it is 1 if self-occupied and 2 if tenanted. The UseFactor (UF) varies from 1 for Residential and Public Purpose to 10for Star Hotels (3 star and above), Hoardings and Towers. The UseFactor for Industry, Entertainment, Recreation, and Clubs has been specified as 3 and that of Utilities

> *and Business as 2 and 4,respectively. Finally, the Structure Factor (SF) for pucca and semi-pucca buildings is 1, while it is 0.5 for kutcha buildings.*
>
> *49. From the above discussion, it is apparent that clear guidelineshave been prescribed under the new regime for, first of all, classifying colonies/ areas/ localities in Delhi into differentcategories depending upon the parameters as specified in clauses(a) to (j) of section 116A(1) and, secondly, for arriving at the baseunit area values and the multiplicative factors. Thus, the provisions of section 116A and other related provisions cannot be regarded as being arbitrary or contrary to article 14 of the Constitution.*

89. Furthermore, in ***Delhi International Airport (P) Ltd.,*** the Division Bench of this Court was dealing with the challenge to the UF-10 assigned to hoardings. The petitioners therein, contended that the UF had been imposed without any clear basis, asserting that it was arbitrary and violated Article 14 of the Constitution. They argued that even if the levy of property tax on hoardings was permissible, its imposition at ten times the normal rate, by including hoardings in Bye-Law 9(m), was *ultra vires* Section 116A(1)(f) of the DMC Act. Furthermore, the petitioners claimed that this tax was exorbitant, making the hoarding operators pay excessive sums in the form of advertisement revenue collected by the MCD.

90. The Court, however, found that there was no substantial challenge raised by the petitioners regarding the UF stipulated for hoardings, aside from the assertion that it was excessive. It emphasized that Courts generally refrain from interfering with the rate of tax unless it is shown to be manifestly arbitrary or confiscatory. The Court also noted that the MVC, which is a statutory body constituted by the Government under Section 116 of the DMC Act, had the statutory legitimacy to recommend classification of lands and buildings for the purpose of property tax imposition.

91. It was further noted that as per the mandate of Section 116A(1) of the DMC Act, the MVC had recommended the UF-10 for hoardings, which was within its statutory power as enshrined in Section 116A of the DMC Act. The Court clarified that the recommendations of MVC were based on clear legislative guidelines, including various parameters such as the use or nature of the building.

92. The Court observed that the petitioners therein were not able to demonstrate how the UF-10 was arbitrary or unreasonable. It was observed that commercial buildings, such as those used for advertisements, were assigned higher use factors compared to residential or public service buildings, as they served as income-generating properties. In the absence of any material showing discrimination or arbitrariness, the Court found the recommendation of the MVC and subsequent allocation UF-10 for hoardings to be reasonable. Paragraph nos. 56 and 57 of the aforenoted decision are extracted as under: -

> "*56. In our view, there is actually no serious challenge raised by the Petitioners qua the use factor stipulated for hoardings. Except for raising the submission that the use factor allocated is exorbitant, the petitioners have not demonstrated how the employment of the said use factor makes the levy unreasonable and exorbitant. Nevertheless, we shall also deal with this contention. It is well settled in law that courts ordinarily are not concerned with the rate of tax, unless it is shown to be wholly arbitrary or confiscatory. The issue regarding the authority of Municipal Valuation Committee (MVC)and the legality of the classification of various buildings and colonies done by the MVC has been dealt with, and upheld by this Court in the case reported as Vinod Krishna Kaul's case (supra). The MVC is a statutory body which is constituted by the Government after every three years under Section 116 of the DMC Act. The MVC gives various recommendations for classifying various colonies, groups of lands and buildings for the purpose of imposition of property tax. As per recommendations of the MVC, various properties/buildings/ lands are given a use factor for the purposes of calculating the property tax under the Unit Area Method. Hoardings have been allotted a use factor of 10. Section 116A clearly gives authority to the MCV to recommend*

classification of lands and buildings on the basis of parameters as detailed therein. Sub clause (f) of Section 116A(1) provides use-wise categories of any building to be taken as one of the parameters for classification of buildings. Thus, use factor is recommended by the MVC on the basis of different uses to which buildings may be put. In the instant case, the MVC has recommended the use factor of 10 on hoarding. As per the scheme of the statute, recommendations of the MVC for allotment of use factor is an exercise carried out within its power and as per the parameters laid down in Section 116A of the Act. Giving recommendations is within the competence of the MVC. The MVC has prescribed various factors for purposes of computation of property tax under the unit area method, which has been upheld by this Court in the case Vinod Krishna Kaul's case (supra). The parameters for giving recommendations by the MVC for classification of the colonies and groups of lands and buildings are clearly spelt out in Section 116A of the DMC Act. These parameters are in the nature of guidelines to be followed by the MVC while making its recommendations with regard to the classification.

57. There are no cogent grounds for impugning the recommendations of the MVC. It has not been suggested by the counsels for the petitioners that the requirements of the aforesaid sections have not been fulfilled either by the MVC in making recommendations, or by the respondents before making there commendations final. The only contention raised is that the use factor of 10 provided for hoardings is arbitrary and unreasonable which is violative of Article 14. It is settled law that persons or things can be treated differentially as long as there is intelligible differentia for the classification. An examinationof different kinds of buildings to which use-factor have been applied, wouldgo on to show that the buildings with a commercial use have been subjectedto a higher use-factor as compared to the buildings used as hospitals, schoolsetc. Hoardings are a source of income as they are generally used for displaying advertisements for consideration, and are, therefore, not similarly situated as the buildings which are used either as residence, or to provide public servicesto the general public. The rate is variable and is applied as per recommendation of the MVC keeping in view several parameters, including use or nature of the building. We are dealing with a taxation provision, where the legislature is permitted wide discretion. Keeping this in mind, in the absence of any material to show discrimination, arbitrariness, or un reasonableness for allotting the use factor, the plea is devoid of merit and cannot be entertained"

93. Similarly, this Court in ***Harsh Vardhan Bansal***, upheld the

classification of 'Super Commercial Properties'. The Court noted that malls, multiplexes, and similar commercial properties could form a distinct class, given their unique characteristics, such as the variety of activities they host, the high quality of infrastructure, and their significant impact on public resources. These properties, due to their ability to generate high levels of activity and establish commercial ecosystems, could be categorized separately from normal shops or traditional commercial spaces. This classification, the Court observed, was reasonable and aligned with the statutory intent of the DMC Act.

94. The Court also emphasized that the decision-making process adopted by the MVC followed the procedural requirements laid down in the DMC Act, which mandated public notices, hearings, and the consideration of objections before finalizing the classification. It was noted that the MVC had conducted hearings and reviewed representations from various stakeholders, including the petitioners, before submitting its final report. The Court further pointed out that the petitioners did not raise objections at the relevant time, thereby limiting the scope for judicial interference. The *ratio* given by the Court in paragraph no. 48 onwards, is extracted as under: -

> *"48. Upon a perusal of factual matrix of the case vis-à-vis the established position of law in the decisions referred hereinabove, it becomes evident that Section 116A of the DMC Act duly empowers MVC to recommend the classification of vacant lands and buildings inany ward of Delhi into colonies and groups of lands and buildings after taking into account the parameters enunciated, therein. On an overall examination of various parameters, if MVC finds that the group of certain buildings forms a separate class, the same can always be placed distinctly and separately from other categories of buildings. Such a placement, however, must satisfy the test of reasonableness and refute class legislation. The parameters which are essentially required to be examined, under Section 116A, inter alia, includes settlement patterns, availability of civic and social infrastructure, access to roads, access to district centres, local*

shopping centres, convenience shopping centres, land prices and use-wise category of buildings etc.

49. If the characteristics of the shops situated in a mall are looked into, they certainly form a separate class on account of various reasons, namely, (i) they are located in an integrated complex comprising of bouquet of activities like eating joints, health andfitness, cyber cafes, corporate offices, pubs, etc.; (ii) the malls are in away, one-stop destination catering to different needs of public at large;(iii) there is always highest quality of civic and social infrastructure available; (iv) on account of heavy footfall, corresponding extraburden is obvious on Corporation and on various other Departments;(v) the centres are comprising of multiple markets; (vi) every need ofthe consumer from a needle to an anchor is met at such places etc. These are only illustrative factors which distinguish the petitioners"entities from other entities of the similar nature in one or the otherway. There are bound to be other aspects as well to draw such a distinction from a normal shop situated in markets. Similarly, the entities at multiplexes, metro stations and flattened factory also standout from traditional commercial setups of the similar nature, inter alia, due to their unique ability to generate high levels of activity, create commercial ecosystem around them and stimulate establishment of high value urban spaces. The overall footprint of such buildings/spaces on the available public resources is also on a different plane as compared to normal shops or markets.

50. On a conjoint reading of Section 114D, which prescribes different rates of taxation, between the minimum to maximum for different colonies or for different groups of buildings in such coloniesand Section 116A of the DMC Act, the Court is of the considered opinion that any placement of a set of buildings into a specific category cannot be said to be a class legislation, rather the same wouldbe considered a reasonable classification. The said classification does not reek of arbitrariness. The factors, as prescribed under Section116A, can together be accounted for in arriving at such conclusion and those shops/properties which are situated in a particular colony will have no bearing, in view of the specialities attached to the sets of specially classified shops/buildings. The location of shops in a shopping mall, a multiplex, entities at metro stations etc. cannot be compared with any other normal shop located in a local market. The high-end local markets, however, would be considered differently for their categorisation, but the same in itself will not detain MVC in placing a particular set of shops or buildings with similar facilities and ambience into Category „A" and describing them to be Super Commercial Properties.

51. In the instant cases, more importantly, on publication of the

interim report, the objections were invited with respect to the classification of properties and numerous other recommendations. Various objections were received and considered, thoroughly, by the MVC. It is an admitted position that none of the petitioners had raised any objections at the relevant point of time.

52. It is noteworthy that the MVC is a creation under the Statuteand by virtue of the same, it is mandated to follow the procedure laid down in the DMC Act. The Court, under its power of judicial reviewcan certainly examine the decision-making process, however, the decision arrived at per se cannot be made amenable to the review, unless the same is shown to be completely discriminatory, arbitrary or llegal.

53. The MVC-III vide its recommendations has assigned various reasons as to why there is a need to categorize some of the properties as Super Commercial Properties. The decision, therefore, is not bereft of application of mind. The same rather derives strength from the provisions of the DMC Act itself. Further, it needs to be noted that the inherent statutory purpose of MVC is classification of colonies, lands and buildings and thus, the MVC cannot be put to question for discharging its statutory duties unless the action is procedurally unconstitutional or reeks of arbitrariness or patent illegality or the classification is not based on the relevant parameters. The Court cannot lose its sight from the elementary purpose of the constitution of MVC itself and merely because MVC has reasoned the paying capacity of the shop owners as one of the factors for the categorisation, the entire decision cannot be disturbed when the same independently passes the scrutiny of law, particularly in light of thetenets of equality and the fact that it is based on due consideration ofvarious other parameters.

54. It is well settled through various pronouncements of the Supreme Court that the principle underlying the guarantee in Article14 of the Constitution of India is not that the same rules of law should be applicable to all persons within the territory of India or that the remedy should be made available to them irrespective of difference of circumstances. The said legal position has been reaffirmed even in the decisions relied upon by learned counsel appearing for the petitioners. Article 14 of the Constitution of India only signifies that all the individuals in similarly placed circumstances shall be treated alike, both in terms of privileges conferred and liabilities imposed. Undoubtedly, the legislature has a right of classifying persons and placing those whose conditions are substantially similar under the same rigour of law, while applying different rules to persons who are differently situated. In making the classification, the legislature cannot certainly be expected to provide an "abstract symmetry". What is prohibited is arbitrary, artificial and an evasive classification. In essence,

classification must hinge upon real and substantial distinction bearing a reasonable and just relation to the things in respect of which the classification is made. It also remains undisputed that the presumption is always in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been transgression of constitutional principles. Whether the classification, if any, is reasonable or arbitrary or is substantial has to be adjudicated upon by the Courts and the decision must turn more on one's common sense than on an over refined legal distinction of subtleties (See:State of West Bengal v. Anwar Ali Sarkar23).

55. At this juncture, an ancillary issue which also merits consideration is the extent of judicial review which can be exercised to interfere with the authority of the Corporation to impose taxes.

56. It is beneficial to forthwith refer to the case of Khandige Sham Bhat v. Agriculture Income Tax Officer, wherein, the Supreme Court has held that the Courts, in view of the inherent complexity of fiscal legislation, admit a larger discretion to the legislature in the matters of classification, so long as it adheres to the fundamental principles underlying the doctrine of equality. The power of the legislature to classify is said to be of wide range and flexibility so that it can adjust its system of taxation in all proper and reasonable ways.In the case of State of Kerala v. Haji K. Haji K. Kutty Naha and Ors.25 relied upon by the petitioners, the classification was held to be not permissible as while enacting Kerala Building Tax Act, no attempt at any reasonable classification was found to have been made by the legislature. The class to which a building belongs, the nature of construction, the purpose for which it is used, its situation, its capacity for profitable use, and other relevant circumstances which have a bearing on matters of taxation were not considered, therein. The method was adopted merely on the basis of floor area of the building, irrespective of all other considerations. The Court noted that where objects, persons or transactions, essentially dissimilar, are treated bythe imposition of a uniform tax, it may result into discrimination. A refusal to make a rational classification may itself in some cases operate as denial of equality. If the aforesaid enunciation of law is applied under the facts of the present case, the same would justify the recommendations of MVC-III, instead of sustaining the arguments of the petitioners. The recommendations of MVC-III consider the nature of the building, the object of its construction, persons who occupy the premises, nature of transactions, potential for generation of commercial activity, total constructed area and other circumstances as has been noticed in preceding paragraphs. It is thus seen that the decision in the case of Haji K. Haji would not support the case of the petitioners.

57. The Supreme Court in the case of S.Kodar, while considering

the argument of applicability of different rates of tax imposed on different dealers, has held that as long as the tax retains its avowed character and does not confiscate property to the State under the guise of a tax, the reasonableness of the tax is outside judicial ken. The volume of rate of tax depending upon the turnover was held to be permissible, holding therein, that the basis for the same is that a large dealer occupies a position of economic superiority, thus, making his tax heavier is not arbitrary, rather it is an attempt to rationalise the payment proportionately with the capacity to pay and arrive at a more genuine equality. It has also been held that the economic wisdom of tax is within legislative domain. Similar view has been taken in the case of Sadik Bakery wherein, the Supreme Court was called upon to consider whether there is rationality in prescribing different tax rates depending upon the capacity to pay tax. The Supreme Court took a view that there is rationality in the said proposition and the same principle was found to be sound in common sense and in consonance with the social justice. In the case of Hoechst Pharmaceuticals, the Supreme Court has held that on the question of economic regulations and related matters, the Court must prefer the legislative judgment.

58. Recently, in the case of Vishal Tiwari v. Union of India, the Supreme Court has reiterated the enunciation of law that the Court ought not to substitute its own view by supplanting the role of an expert, when technical questions arise particularly in the financial or economic realm; experts with domain knowledge in the field have expressed their views; and such views are duly considered by the expert regulator in designing policies and implementing them in the exercise of its power to frame subordinate legislation.

59. The settled law on the extent of jurisdiction of the Courts to test the constitutional validity of the fiscal statutes states that the taxing statute is not exposed to attack on the ground of discrimination merely because different rates of taxation are prescribed for different categories of persons, transactions, occupations or objects, as has been expounded in the case of N. Venugopala Ravi Varma Rajah v. Unionof India. Further, in the case of The Amalgamated Tea Estates Co.Ltd. v. State of Kerala, it has been held that as revenue is the first necessity of the State and as taxes are raised for various purposes and by an adjustment of diverse elements, the Court grants to the State greater choice of classification in the field of taxation than in other spheres. It is also pertinent to note that the taxation regime of a country is a reflection of the social outlook of the country and a sound taxation policy lies at the core of the idea of social justice. For, the tool of taxation aims to impose a proportionate burden on the subjects for the collective benefit of all.

60. In the instant case, MVC-III was constituted in accordance with the statute comprising of experts and there is no assertion in the

petitions that MVC-III has not acted as per the procedure laid down inthe extant rules and regulations. MVC-III submitted its interim report on 25.06.2010 and thereafter, a sub-committee of five members was set up by the Corporation for scrutinizing the interim report. The sub-committee submitted its report to the Standing Committee of the Corporation. On 15.12.2010, the Standing Committee approved the report of the Sub-committee and recommended it to the Corporation. It is, only thereafter, that a notice was issued by the Corporation notifying the interim report of MVC-III declaring its intention to classify vacant land and building in each ward and inviting representation, thereon, as mandated by Section 116B of the DMC Act

61. The aforesaid public notice dated 02.01.2011, received 131representations which were duly scrutinized and heard by the MVC-III after fixing a date/time for each of them, through a notice issued in that regard. A public notice inviting suggestions, by the newly constituted MVC had also been issued on 09.09.2009 at the time of commencement of its work. The same had also led to numerous representations which were also heard by MVC-III along with the representations received pursuant to the public notice dated 02.01.2011. As stated in the counter-affidavit filed by the respondents, MVC-III held sixteen (16) hearings to consider the representations on various dates i.e., 24.01.2011, 28.01.2011, 31.01.2011, 02.02.2011,04.02.2011, 09.01.2011, 11.02.2011, 14.02.2011, 21.02.2011,23.02.2011, 25.02.2011, 28.02.2011, 04.03.2011, 07.03.2011,09.03.2011 and 25.03.2011. It is only thereafter that MVC-III gave its final report which is binding upon the Corporation in terms of Section 116 B (2) of the DMC Act. Admittedly, none of the petitioners had at any point of time raised any objections. This Court, therefore, under such circumstances, is deprived of any consideration of the petitioners" objection in the first place itself, which further narrows the scope of interference directly by the Constitutional Court.

62. The petitioners have also strenuously argued that on account ofthe classification of land as per Delhi Circle Rates, 2014, the coloniesin Delhi had already been categorised from „A" to „H" for the purposesof their monetary value based on various factors laid down therein, and therefore, classification of the entities present in a particularcolony cannot be made differently from the colony they are located in."

95. Furthermore, with respect to the classification of hotels on the basis of star category, it is deemed appropriate to refer to the decision of the Supreme Court in ***Kerala Hotel and Restaurant Association.***

petitioner's case therein primarily concerned the differentiation in sales tax based on the nature of the eating establishments, specifically distinguishing between luxury hotels and more modest eating houses. The Court observed that the cost of meals in these two categories varied significantly, and the sales tax on food in luxury establishments could exceed the total cost of the meal in a modest establishment.

96. The Court affirmed that such a classification, which segregated high-end hotels based on their star ratings, had a rational nexus with the legislative objective of raising revenue. This classification was found to be rooted in intelligible *differentia*, with a connection to the intended fiscal policy, which sought to impose the tax primarily on those who could afford to pay, thereby promoting economic equity. It was held that the star rating system, which is used for tourism and other amenities, provided an appropriate and practical basis for identifying luxury establishments where a higher tax could be levied.

97. The Court, further, upheld the distinction between eating houses based on their status, particularly the classification of star-rated hotels, stating that the rationale behind this was not only supported by fiscal objectives but also aligned with the policy to reduce the economic burden on lower-income sections of society. Importantly, it was clarified that such classifications, being tied to an existing, pragmatic categorization of hotels, were within the legislative wisdom and did not violate constitutional norms of equality or arbitrary discrimination.

98. Thus, the classification based on the star-rating of hotels was deemed valid in the aforenoted decision, as it was founded on an intelligible differentia and bore a rational nexus with the objective of raising revenue without imposing undue burden on those less able to afford luxury services. The Court recognized the legislature's discreti[illegible]

determining the appropriate method for classification, and held that unless the classification was found to be palpably arbitrary, it should not be interfered with by the judiciary. The relevant paragraphs of the aforesaid decision read as under: -

> " *22. We shall now mention the arguments advanced by learned counsel challenging this imposition in the two States. The power of the State legislature to levy sales tax by virtue of Entry 54 in List II of the Seventh Schedule to the Constitution and the availability of that power in the present case to impose sales tax on food and drinks by virtue of clause (29-A) inserted in Article 366 of the Constitution by the Constitution (Forty-sixth Amendment) Act, 1982, is rightly not disputed. However, it is contended that the classification made of the food and drinks taxed and those exempted is discriminatory and arbitrary. It was urged that the classification is not based on the goods taxed but on the status of the consumers which is not permissible. It was urged that the commodity taxed being the same as that exempted, the difference being only in the place of their sale, differentiation for taxation on the basis of place of sale is impermissible. It was argued that Article 366(29-A) permits imposition of tax on sale of food and drinks in any form but it does not permit a differentiation with reference only to the place of sale. It was also urged that the classification in such cases based only on turnover may be permissible for administrative and some other reasons but not on the place of sale, the status of the customer or difference in the impact of such tax on the customer. It was also contended that the classification made with reference to the status of hotel has no nexus with the object of imposition of sales tax because the approval for the star status is for a different purpose relating to tourism and the other amenities provided in the hotel. An attempt was also made to contend that the quality of food need not necessarily be superior in a hotel of higher star status as compared to an ordinary eating house and the charges for food served in the luxury hotels also include the service charges and not merely the cost of food. Similarly, it was urged that a distinction made on the basis of a bar being attached to the hotel has no relevance or justification for the classification made in this context. In reply, it was contended by Shri P.S. Poti and Shri K. Rajendra Choudhary on behalf of the two State Governments that such classification being permissible the mode to be adopted is the legislature's choice which has chosen a pragmatic mode based on an existing classification instead of undertaking the exercise of a new classification to identify the two categories of eating houses, the sales wherein should be taxed or exempted. It was urged that unless the classification so made is found to be arbitrary, there is no ground to reject the same*

and substitute it with another method simply because another method may be more desirable. It was also contended that the object being to raise only limited revenue from this source, it was decided to tax only the sale of costlier food and thereby confine the burden only to fewer people on whom the burden would be light with the added advantage of greater administrative convenience.

23. A catena of decisions was cited at the bar on the point relating to valid classification and the test to be applied when hostile discrimination is alleged. It is not necessary to refer to all those decisions which state the settled principles not in dispute even before us. The difficulty really is in the application of settled principles to the facts of each case. It is settled that classification founded on intelligible differentia is permitted provided the classification made has a rational nexus with the object sought to be achieved. In other words, those grouped together must possess a common characteristic justifying their inclusion in the group, but distinguishing them from those excluded; and performance of this exercise must bear a rational nexus with the reason for the exercise.

24. The scope for classification permitted in taxation is greater and unless the classification made can be termed to be palpably arbitrary, it must be left to the legislative wisdom to choose the yardstick for classification, in the background of the fiscal policy of the State to promote economic equality as well. It cannot be doubted that if the classification is made with the object of taxing only the economically stronger while leaving out the economically weaker sections of society, that would be a good reason to uphold the classification if it does not otherwise offend any of the accepted norms of valid classification under the equality clause.

25. Broadly stated the points involved in the constitutional attack to the validity of this classification are, in substance, only two:

(1) Is the classification of sales of cooked food made with reference to the eating houses wherein the sales are made, founded on an intelligible differentia? and

(2) If so, does the classification has a rational nexus with the object sought to be achieved?

26. It would be useful at this stage to refer to some decisions of this Court indicating the settled principles for determining validity of classification in a taxing statute. In Ganga Sugar Corporation Limited v. State of Uttar Pradesh [(1980) 1 SCC 223 : 1980 SCC (Tax) 90] , Krishna Iyer, J. speaking for the Constitution Bench held that a classification based, inter alia, on "profits of business and ability to pay tax" is constitutionally valid. Classification permissible in a taxing statute of dealers on the basis of different

turnovers for levying varying rates of sales tax was considered by the Constitution Bench in S. Kodar v. State of Kerala [(1974) 4 SCC 422 : 1974 SCC (Tax) 272] , and Mathew, J. therein indicated the true perspective as under : (SCC p. 428, para 17)

"As we said, a large dealer occupies a position of economic superiority by reason of his volume of business and to make the tax heavier on him both absolutely and relatively is not arbitrary discrimination but an attempt to proportion the payment to capacity to pay and thus arrive in the end at a more genuine equality. The capacity of a dealer, in particular circumstances, to pay tax is not an irrelevant factor in fixing the rate of tax and one index of capacity is the quantum of turnover. The argument that while a dealer beyond certain limit is obliged to pay higher tax, when others bear a less tax, and it is consequently discriminatory, really misses the point namely that the former kind of dealers are in a position of economic superiority by reason of their volume of business and form a class by themselves. They cannot be treated as on a par with comparatively small dealers. An attempt to proportion the payment to capacity to pay and thus bring about a real and factual equality cannot be ruled out as irrelevant in levy of tax on the sale or purchase of goods. The object of a tax is not only to raise revenue but also to regulate the economic life of the society."(emphasis supplied)

31. The obvious reason for making the classification in the present case is to group together those eating houses alone wherein costlier cooked food is sold for the purpose of imposition of sales tax to raise the needed revenue from this source. The object apparently is to raise the needed revenue from this source by taxing the sale of cooked food only to the extent necessary and, therefore, to confine the levy only to the costlier food. The predominant object is to tax sale of cooked food to the minimum extent possible, since it is a vital need for sustenance. Those who can afford the costlier cooked food, being more affluent, would find the burden lighter. This object cannot be faulted on principle and is, indeed, laudable. In addition, the course adopted has the result of taxing fewer people who are more affluent in the society for raising the needed revenue with the added advantage of greater administrative convenience since it involves dealing with fewer eating houses which are easier to locate. This accords with the principle of promoting economic equality in the society which must, undoubtedly, govern formulation of the fiscal policy of the State

34. It was urged that eating houses serving cooked food of the same quality but not recognised with the higher star status to bring it within the tax net enjoyed an undue advantage not available to those within the tax net. ***It was also urged that recognition of a hotel for conferment of the star status was made for a different purpose, namely, promotion of tourism and the other facilities available***

therein which have no relevance to the quality of food served therein. Admittedly, such recognition entails several benefits and seeking recognition depends on volition. In our opinion, such an enquiry is unwarranted for the purpose of classification in the present context. It is well known that the tariff in hotels depends on its star status, it being higher for the higher star hotels. The object being to tax cooked food sold at a higher tariff, the status of the hotel where it is sold is certainly relevant. The classification is made in the present case to bring within the tax net hotels or eating houses of the higher status excluding therefrom the more modest ones. A rational nexus exists of this classification with the object for which it is made and the classification is founded on intelligible differentia. This being a relevant basis of classification related to the avowed object, the legislature having chosen an existing classification instead of resorting to a fresh method of classification, it cannot be a ground of invalidity even assuming there are other better modes of permissible classification. That is clearly within the domain of legislative wisdom intrusion into which of judicial review is unwarranted. There is no material placed before us to indicate that with reference to the purpose for which the classification has been made in the present case, there is a grouping together of dissimilar eating houses or that similar eating houses have been excluded from the class subject to the tax burden."

(emphasis supplied)

99. In ***Twyford Tea Co. Ltd. and Anr vs. The State of Kerala and Another***,[19] the Supreme Court was dealing with a challenge to the constitutional validity of the Kerala Plantation (Additional Tax) Act, 1960 (as amended in 1967), which imposed an additional uniform tax on certain plantation lands such as tea, coffee, rubber, and others, without taking into account distinctions in location, fertility, yield, or productivity. The core issue raised was whether such a uniform levy amounted to an arbitrary and discriminatory classification, thereby violating Article 14 of the Constitution. The Court upheld the validity of the Act and emphasized that the burden of establishing discrimination in taxation is a heavy one, and becomes even more onerous when a taxing statute is challenged.

[19] (2000) 1 SCC 189

Referring to the dictum of the Supreme Court of the United States of America and scholarly writings, the Court reiterated that legislatures enjoy the widest latitude in matters of taxation and classification, and that the burden lies upon the challenger to negate every conceivable basis which could sustain the legislative arrangement. It was further held that uniform taxation on plantations could not be regarded as discriminatory merely because of differences in productivity among plantations, unless clear evidence of hostile discrimination was shown. Since the petitioners failed to establish deliberate discrimination or hostile treatment, the Act was held constitutionally valid and not violative of Article 14 of the Constitution. In paragraphs no. 16 and 17, the Court held as under: -

> *"16. The next principle is that the burden of proving discrimination is always heavy and heavier still when a taxing statute is under attack. This was also observed in the same case of this Court at page 411 approving the dictum of the Supreme Court of the United States in Madden v. Kentucky*
> *"In taxation even more than in other fields, Legislatures possess the greatest freedom in classification. The burden is on the one attacking the legislative arrangement to negative every conceivable basis which might support it.*
> *As Rottschaefer said in his Constitutional Law at p. 668*
> *"A statute providing for the assessment of one type of intangible at its actual value while other intangibles are assessed at their face value does not deny equal protection even when both are subject to the same rate of tax The decisions of the Supreme Court in this field have permitted a State Legislature to exercise an extremely wide discretion in classifying property for tax purposes so long as it refrained from clear and hostile discrimination against particular persons or classes."*
>
> *The burden is on a person complaining of discrimination. The burden is proving not possible inequality but hostile "unequal" treatment. This is more so when uniform taxes are levied. It is not proved to us how the different plantations can be said to be 'hostilely or unequally' treated. A uniform wheel tax on cars does not take into account the value of the car, the mileage it runs, or in the case of taxis, the profits it makes and the miles per gallon it delivers. An ambassador taxi and a Fiat taxi give different outturns in terms of money and mileage. Cinemas pay the same show fee. We do not take a doctrinaire view of equality. The e Legislature has obviously thought of equalising the tax through a method which is inherent in the tax scheme. Nothing has been said to show that there is inequality much less 'hostile treatment' All that*

said is that the State must demonstrate equality. That is not the approach. At this rate nothing can ever be proved to be equal to another.

17. There is no basis even for counting one tree as equal to another. Even in a thirty years' settlement, the picture may change the very next year for some reason but the tax as laid continues. Siwai income is brought to land revenue on the basis of number of trees but not on the basis of the produce. This is worked out on an average income per trees but not on the basis of the produce. This is worked out on an average income per tree and not on the basis of the yield of any particular tree or trees."

100. Furthermore, in ***M/s S. Kodar v. State of Kerala***[20], the validity of the Kerala Additional Sales Tax Act, 1970 was challenged on the ground that it imposed an unreasonable and discriminatory tax burden on dealers. The Supreme Court held that the additional sales tax was not discriminatory, as all dealers above a certain turnover threshold were treated equally. The classification based on turnover was held to be reasonable and not arbitrary. In paragraph no. 17, the Court held as under: -

"17. As we said, a large dealer occupies a position of economic superiority by reason of his volume of business and to make the tax heavier on him both absolutely and relatively is not arbitrary discrimination but an attempt to proportion the payment to capacity to pay and thus arrive in the end at a more genuine equality. The capacity of a dealer, in particular circumstances, to pay tax is not an irrelevant factor in fixing the rate of tax and one index of capacity is the quantum of turnover. The argument that while a dealer beyond certain limit is obliged to pay higher tax, when others bear a less tax, and it is consequently discriminatory, really misses the point namely that the former kind of dealers are in a position of economic superiority by reason of their volume of business and form a class by themselves. They cannot be treated as on a par with comparatively small dealers. An attempt to pro-portion the payment to capacity to pay and thus bring about a real and factual equality cannot be ruled out as irrelevant in levy of tax on the sale or purchase of goods. The object of a tax is not only to raise revenue but also to regulate the economic life of the society."

101. In ***Anant Mills Co. Ltd. V. State of Gujarat***[21], the Supreme Court was dealing with a challenge to the provisions of the Bombay Provincial Municipal Corporations Act, 1949 (as amended by Gujarat) relating to conservancy tax imposed on textile mills and factories. The constitutional validity of the tax provisions and municipal powers was under challenge. The Court held that the classification of tax rates was reasonable and did not infringe on equality. The Supreme Court in paragraph nos. 37 and 38 held as under: -

> *"37. After giving the matter our consideration, we are of the view that what is required by Section 129 is that before determining the rates of conservancy tax for different categories of properties the Corporation should find out the total expense it would have to incur for the various purposes mentioned in clause (b) of that section. After having ascertained the total expense it would be permissible to the Corporation to fix different rates of conservancy, tax for various categories of properties. It is not essential, except in cases mentioned in sub-sections (2) and (3) of Section 137, that the rate of conservancy tax for particular category of properties should be such as would be related only to the expense for conservancy-service for that particular category of properties. According to the proviso which has been added to clause (b) of Section 129 of the Corporations Act by Act 5 of 1970, when determining under Section 99 or Section 150 he rate at which conservancy tax shall be levied for any official year or part of an official year, the Corporation may determine different rates for different classes of properties. There is nothing in the above proviso which makes it obligatory for the Corporation to take into account separately the cost of conservancy service for each class of property for which conservancy tax is fixed. Apart from the fact that there is no statutory obligation for the Corporation to have separate estimates of the costs of conservancy service for various classes of properties referred to in the above proviso with a view to allocate the cost amongst different classes of properties, it would not even be feasible to do so for there would not be separate municipal drains for different classes of properties already mentioned, clause (b) of Section 129 also takes into account the expense required for efficiently maintaining and repairing the municipal drains for finding out the total expenditure for conservancy service The High Court, in our opinion, was in error in striking down the resolutions passed by the Corporation for the official years 1967-68, 1968-69, 1969-70 and 1970-71 to the extent to which they fixed the rate of conservancy tax at 9 per cent in respect of textile mills and factories because of the absence of sufficient data to show as to what, would be the cost of conservancy service for that particular*

category of properties. The affidavit on behalf of the Corporation, extract from which has been reproduced above, shows that the rates of conservancy tax for the different category of properties have been fixed after taking into account the total expense for the conservancy service. It is not possible to insist upon arithmetical accuracy in such matters. A broad and general estimate of the cost of conservancy service and the tax receipts after taking into account the relevant factors would satisfy the requirement of law.

38. We are unable to accede to the submission of Mr. Tarkunde that in view of the construction which are placing upon the proviso to Section 129(b). the proviso would be violative of Constitution on account of excessive delegation of legislative power. As already mentioned, the Corporation must keep in view the total expense it would have to incur for the conservancy service before fixing the various rates of conservancy tax. The different rates of conservancy tax have thus to be related to the total cost of conservancy service to be borne by the Corporation, The "opinion of the Corporation" mentioned in-clause (b) of Section 129 is formed after budget estimates are prepared in accordance with Sections 95, 96 and 100 of the Corporations Act.
According to the above provisions the Commissioner is to make a statement of proposals: as to the taxation which would in his opinion be-necessary or expedient to impose under the provisions of the Act in the annual budget estimate of the next official year. The Standing Committee then considers the estimates and proposals of the Commissioner, and after having obtained from the Commissioner further details and information as they think fit, the Committee frames the budget estimates. The budget estimates contain proposals of rates and extents of municipal taxes. The budget estimates are then printed, and the printed copies are sent to each .The budget estimates are thereafter laid before the Corporation which then considers the same. In considering the budget estimates the Corporation is entitled to refer them back to the Standing Committee for further consideration or to adopt them as they stand or subject to alterations. The entire procedure provides built-in safeguards and lays down adequate guidelines in the matter of taxation. It there-fore cannot be said that the Legislature has not prescribed any guiding principle for the Corporation for determining the rates of conservancy tax. We agree with the High Court that the proviso to clause (b) of section 129 does not suffer from the vice of excessive delegation of legislative power."

102. At this stage, some of the decisions relied upon by the petitioners can also be looked into. In ***Trustees of H.C. Dhanda Trust vs State of MP and Ors.***[22] , the Supreme Court was considering whether the imposition of ten times penalty by the Collector of Stamps under S. 40 of

[22] (2020) 9 SCC 510

the Stamp Act, 1899 was validly imposed or not. In ***Municipal Corporation of Delhi vs. Shashank Steel Industries (P.) Ltd. and Ors.***[23], the Court was dealing with liability to pay property tax on vacant land held under a perpetual lease under the DMC Act. These cases have no application in the instant case.

103. Rather, it is pertinent to note that in ***Jindal Stainless Steel Ltd.***, the case relied upon by the petitioner, the Supreme Court has held that imposing a tax is a compulsory exaction made for a public purpose without reference to any special benefit to the taxpayers. It also clarified the distinction between a tax and a fee/compensatory tax in the context of Article 301 of the Constitution. The Court held that while a tax is levied as part of a common burden based on the principle of ability or capacity to pay, without a direct or measurable benefit to the taxpayer, a fee or compensatory tax is founded on the "principle of equivalence," wherein a quantifiable, measurable benefit is conferred on individuals through facilities or services provided by the State. On the one hand, it was held that a compensatory tax is essentially a subclass of a fee and is proportional, not progressive, being directly linked to the costs incurred by the State in providing trading facilities, thereby representing a form of reimbursement or recompense rather than a burden. The theory underlying compensatory taxation is that when the State, by positive action, confers measurable advantages upon individuals engaged in trade or commerce, fairness demands that the beneficiaries bear the cost of such facilities. The Supreme Court, while discussing the concept of tax has held as under: -

> *"Tax is not a restriction per se*
> *332. The above Constituent Assembly Debates and the history of Article 301 show that freedom envisaged in Article 301 is not freedom from taxation but only freedom from trade barriers. So long as the tax*

remains non-discriminatory, its validity cannot be judged under Article 301. Under Article 246(3) of the Constitution, a State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II of the Seventh Schedule. Article 246(3) is subject to clauses (1) and (2) of Article 246 i.e. matters enumerated in Lists I and III of the Seventh Schedule. As per Article 265, a tax can be imposed only under authority of law and there is no role of the executive. Taxation includes the imposition of any tax as defined under Article 366(28):

"366. (28) "taxation" includes the imposition of any tax or impost, whether general or local or special, and "tax" shall be construed accordingly."

It is a sovereign power of compulsory exaction as a part of any burden by public authority for public purposes enforceable by law. Imposing a tax is a compulsory exaction made for a public purpose without reference to any special benefit to the taxpayers.

333. The taxing power of the State stands independently fortified by Parts XI and XII of the Constitution of India and can only be challenged on the ground of reasonableness. It needs no reiteration that power of the States to levy taxes for the purpose of governance and carrying out its welfare activities is a necessary attribute of State's sovereignty and in that sense it is a power of supreme attribute. It is well settled that taxes are levied in public interest and hence, cannot be considered a restriction per se on the enjoyment of any freedom contemplated by the Constitution. It would be highly unjustified to view a taxing statute as a restriction on individual freedoms.

334. The essential characteristics of a tax are that : (i) it is imposed under a statutory power without the taxpayer's consent and the payment is enforced by law; (ii) it is an imposition made for public purpose without reference to any special benefit to be conferred on the payer of the tax; and (iii) it is part of the common burden. In Commr., Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt [Commr., Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, AIR 1954 SC 282 : 1954 SCR 1005] , the Constitution Bench has laid down the characteristics of a tax which has since been consistently followed and it is as under : (AIR p. 284, para 43)

"43. ... "A tax" ... 'is a compulsory exaction of money by a public authority for public purposes enforceable by law and is not payment "for services rendered".'

This definition brings out, in all opinion, the essential characteristics of a tax as distinguished from other forms of imposition which, in a general sense, are included within it. It is said that the essence of taxation is compulsion, that is to say, it is imposed under statutory power without the taxpayer's consent and the payment is enforced by law. The second characteristic of tax is that it is an imposition made for public purpose without reference to any special benefit to be conferred on the payer of the tax. This is expressed by saying that the levy of tax is for the purposes of general revenue, which when collected forms part of the public revenues of the State. As the object of a tax is not to confer any special benefit upon any particular individual there is

as it is said, no element of "quid pro quo" between the taxpayer and the public authority.... Another feature of taxation is that as it is a part of the common burden, the quantum of imposition upon the taxpayer depends generally upon his capacity to pay."

The above decision was followed in Indian Medical Assn. v. V.P. Shantha [Indian Medical Assn. v. V.P. Shantha, (1995) 6 SCC 651] and also in State of Gujarat v. Akhil Gujarat Pravasi V.S. Mahamandal [State of Gujarat v. Akhil Gujarat Pravasi V.S. Mahamandal, (2004) 5 SCC 155] .

335. A five-Judge Bench of this Court in Federation of Hotel and Restaurant Assn. of India v. Union of India [Federation of Hotel & Restaurant Assn. of India v. Union of India, (1989) 3 SCC 634] has held that mere excessiveness of a tax or even the circumstance that its imposition might tend towards diminution of the earnings or profits of the persons of incidence does not per se and without more, constitute violation of Article 19(1)(g). The relevant extract from the judgment is as under : (SCC p. 663, para 62)

"62. A taxing statute is not, per se, a restriction of the freedom under Article 19(1)(g). The policy of a tax, in its effectuation, might, of course, bring in some hardship in some individual cases. But that is inevitable, so long as law represents a process of abstraction from the generality of cases and reflects the highest common factor. Every cause, it is said, has its martyrs. Then again, the mere excessiveness of a tax or even the circumstance that its imposition might tend towards the diminution of the earnings or profits of the persons of incidence does not, per se, and without more, constitute violation of the rights under Article 19(1)(g)."

336. Similar view was expressed in Express Hotels (P) Ltd. v. State of Gujarat [Express Hotels (P) Ltd. v. State of Gujarat, (1989) 3 SCC 677] . A taxing statute is not per se restriction of the freedom under Article 19(1)(g) : (SCC pp. 692-93, para 28)

"28. So far as the argument that Fundamental Rights under Article 19(1)(g) are violated by a levy on a mere provision for luxury, without its actual utilisation is concerned, it is settled law that the mere excessiveness of a tax or that it affects the earnings cannot, per se, be held to violate Article 19(1)(g)."

337. Article 304(a) authorises a State Legislature to impose a non-discriminatory tax on goods imported from other States. Article 304(a) does not prevent levy of tax on goods; what it prohibits is such levy of tax on goods as would result in discrimination between goods imported from other States and similar goods manufactured or produced within the State. The object is to prevent imported goods from being discriminated by imposition of a higher tax thereon than the local goods. Under Article 304(b), the States can impose reasonable restrictions on the freedom of trade, commerce and intercourse with or within that State as may be required in public interest; provided they obtain prior sanction of the President before introduction of the Bill. As taxes are levied for the purpose of raising revenue, they are not restrictions and are presumed to be in public interest. Thus, tax simpliciter is not a restriction on the freedom of trade and commerce and is outside the purview of Article 301."

104. Upon careful consideration of the facts and legal position explicated hereinabove, the Court is unable to accept the arguments advanced by the petitioners.

105. As noted hereinabove, the fundamental requirement under Article 14 of the Constitution is that any legislative classification must be founded on an intelligible *differentia*, which distinguishes those who are grouped together from those who are excluded. Moreover, this classification must have a rational nexus with the legislative object sought to be achieved. In the present case, the classification based on the star rating of hotels is rationally connected to the object of the legislation, which is the imposition of property tax based on the classification of buildings into different categories. It is observed that these buildings operating as high-end luxury hotels, categorized under superior star ratings, encompass premium infrastructure and exclusive facilities, such as grand banquet halls, spas, fine-dining establishments, concierge services, and other opulent amenities that distinctly separate them from ordinary lodging accommodations. The imposition of a higher rate of property tax on luxury hotel establishments cannot be construed as arbitrary or capricious, particularly in light of the economic profile of the clientele such establishments are designed to attract. These enterprises voluntarily situate themselves within a premium segment of the hospitality industry, offering high-end amenities and exclusive services that cater to patrons of considerable means, individuals who, by virtue of their financial capacity, are already contributors to the higher tax brackets across various statutory schemes.

106. These hotels voluntarily seek star accreditation, thereby positioning themselves within a segment that targets affluent clientele and delivers

luxurious experiences at a premium cost. In light of this, the legislative intent underlying the imposition of elevated property tax rates on such establishments is to equitably distribute the fiscal burden, ensuring that those possessing greater capacity to pay contribute proportionately to the public revenue. This mechanism advances the tenet of economic equity, whereby taxation is calibrated to reflect not merely ownership, but also various other factors such as the economic stature and voluntary positioning of the establishment. Conversely, more modest residential and commercial properties, serving the general public and devoid of such luxury facilities, are insulated from such heightened levies, thereby safeguarding the interests of the economically weaker sections.

107. Moreover, in light of the explication of the legal standing of star-rated hotels in the cases of ***Kerala Hotel & Restaurant Association***, the Court finds that the star-rating system, which is used to classify hotels based on the quality of their services, infrastructure, and amenities, provides an intelligible and rational basis for this distinction.

108. Further, this Court observes that the legislative wisdom in adopting an existing classification system, such as the MoT's star rating, is well within the permissible bounds of legislative discretion. The decision to use an already established classification, rather than creating a new one, serves the dual purpose of administrative convenience and fairness. The star-rating system is an objective and widely recognized standard that provides a practical mechanism for distinguishing between high-end and modest hotels that offer a spectrum of services. To mandate a fresh classification would unnecessarily complicate the legislative process and introduce greater subjectivity. The Court, therefore, holds that the reliance on the star-rating system is not only rational but also serves the purpose of ensuring fairness and reducing the administrative burden associated with

determining which hotels should be subject to higher taxes and which to lower. Furthermore, it is not the case of the petitioners herein that the star-rating based classification has led to any over-inclusion or under-inclusion or has created a situation of unequals being pitched together in a common class. The star-ratings are based on a host of factors and are intended to target a certain section of society and thus, the hotels placed in a common star category share similar economic dynamics. Consequently, the exaction of tax from such similarly placed hotels could not be termed as arbitrary or unconstitutional.

109. Having observed so, it is equally essential to point out that in judicial review of fiscal matters, especially taxation, arithmetic accuracy is neither possible nor desirable, as also reiterated by this Court in ***Harshvardhan Bansal***. It is so because arithmetically, one could always argue that not all 5-star hotels generate equal income or attract the same clientele. It might be so. Conversely, for example, it could also be argued that there is no equality in terms of the food prices charged by the starred hotels and other modest restaurants for serving the same food. It would be absurd to press for equality in such a scenario, as the higher food prices in starred hotels correspond with a whole ecosystem inclusive of better services, ambience, affluence, infrastructure, allied services, etc. Thus, the higher burden is not without basis, as it corresponds to the facilitation of an ecosystem which promotes higher income generation. Be that as it may, a constitutional Court is not required to enter into this arithmetical exercise to achieve perfect equality. The task before the Court is to determine whether the classification is based on sound parameters or not. Once the underlying basis of the classification is found to be reasonable on broad parameters, the Court would be justified in upholding the classification. Of course, there could be multiple ways to approach

problem, but the Court is not expected to offer its wisdom in matters of policy. It is only required to determine whether the method adopted by the legislature is constitutionally sound or not.

110. The classification made by the legislature on the basis of pre-determined star ratings does not constitute class legislation, rather, it is a reasonable classification under the law. The object of the legislation is not to create arbitrary distinctions but to identify a rational basis for the imposition of taxes. Such differentiation is not only permissible but necessary to achieve the legitimate objective of raising revenue without unduly burdening the economically weaker sections of society.

111. It is a matter of settled commercial practice and consumer perception that brands, trademarks, and symbolic representations exert a significant influence upon the minds of consumers. In the hospitality sector, particularly, the assignment of star ratings to hotels carries substantial weight and operates as a representation of the quality, standard, and amenities guaranteed to the consumer. By way of illustration, the classification of a hotel as a '5-star Hotel' is not a mere decorative description but an assurance of threshold standards, facilities, and services which the consumer is expecting. Across jurisdictions, the said categorisation is uniform and mandates the maintenance of minimum prescribed standards, thereby engendering a legitimate expectation on the part of the consumer.

112. It is further pertinent to note that in the contemporary digital age, the relevance of such categorisation is accentuated, inasmuch as leading travel and hospitality platforms such as *MakeMyTrip*, *GoIbibo*, *Agoda*, and similar aggregators invariably reflect and segregate hotels under distinct classifications, wherein the category of '5-star Hotels' is separately denoted and highlighted. The said classification, therefore, operates as

critical factor in consumer choice and decision-making.

113. The contention advanced by the petitioners that such classification is purely voluntary is devoid of merit. The very act of voluntarily applying for, and thereafter obtaining, the 5-star certification constitutes an express representation made by the petitioners to the regulatory authorities and, by necessary implication, to the consuming public at large. Having sought and secured the benefits emanating from such categorisation, including but not limited to enhanced reputation, market visibility, consumer confidence, and preferential consideration in travel platforms, the petitioners cannot now be heard to contend that such certification is devoid of binding obligations or is a matter of mere formality. The petitioners, having availed themselves of the benefits of star classification, are estopped from asserting its voluntariness to evade the attendant obligations and responsibilities. Of course, it could be acknowledged that a greater tax burden would affect the profitability of the business of the petitioners, however, mere loss of profit is not a ground to declare a tax statute as unconstitutional. The underlying financial burden is implicit in every tax, but it should not be confiscatory in nature.

114. In conclusion, after a thorough examination of the facts and legal principles, this Court upholds the classification of hotels based on their star ratings as a valid exercise of legislative power. The classification passes the test of reasonableness under Article 14 of the Constitution, as it is based on an intelligible *differentia* and bears a rational nexus with the object of raising revenue from those who are economically capable. It is apposite to reiterate that calibration of tax rates on the basis of the economic potential of an entity is not unknown to law. Historically, it has been a recognized criterion for imposing a greater tax burden and has served an instrumental role in stabilizing the economic scales by enabling

the State to ensure equitable distribution of the common resources by putting a proportionately higher burden on those with better means. The tax regime bears a close connection with the directive principles envisaged in Articles 39(b) and 39(c) of the Constitution. Accordingly, the classification is upheld, and the imposition of the property tax based on this classification is declared to be constitutionally valid.

Issue no. (ii)

115. This issue covers the petitioners' challenge to Bye-law 14 in respect of the area deemed to be '*covered space'*. The petitioners have contended that the inclusion of non-FAR, non-revenue spaces like basements and stilts in '*covered space'*, is in complete disregard of the actual reality, wherein hotels' area is not homogenous in terms of use; they include guest rooms which are of residential use, and non-revenue generating areas such as pools, gardens, etc., as well as commercial areas such as restaurants, spas, etc. Thus, they assert, a uniform BUAV cannot be assigned to the whole hotel complex, and each area with a distinct use should be given its base area value on the basis of its use. They argue that the definition of *covered space* explicated in Bye-law 14, as far as it is challenged herein, is *ultra vires* its enabling provision, Section 116E of the DMC Act. They also contend that Section 116E (4) of the DMC Act mandates such differential classification of the distinct areas addressed hereinabove. The MCD countered the petitioners' arguments by challenging the maintainability of the present batch of petitions since an alternate remedy is envisaged under Section 169 of the DMC Act which provides for the MTT, being an appellate mechanism. Nonetheless, they further contend that the impugned property tax policy is well within the scope of the powers granted to the MCD under Section 116E of the DMC

Act. They assert that Section 115 of the DMC Act does not mandate a differential base area value for hotel areas with distinct uses; it only enables the same to be done. Section 115A of the DMC Act, on the other hand, they contend, mandates a uniform base area value for the whole complex. They also remind the Court of the scope of its writ jurisdiction, especially in tax matters such as the present batch of petitions, and also that Section 116E of the DMC Act should not be interpreted narrowly, as it contains an inclusive definition of '*covered spaces'* and even provides for the MCD to prescribe the areas to be covered under the definition.

116. It is pertinent to note herein that Writ Courts, under Article 226 of the Constitution, may review executive actions such as the one impugned herein, on limited grounds; as held by the Supreme Court in ***State of Orissa and others v. Gopinath Dash and Ors*** [24]. The Courts cannot usurp the executive's jurisdiction under the guise of judicial review. The relevant portion is extracted below, for reference: -

> "*While exercising the power of judicial review of administrative action, the Court is not the appellate authority and the Constitution does not permit the Court to direct or advise the executive in matter of policy or to sermonize any matter which under the Constitution lies within the sphere of the Legislature or the executive, provided these authorities do not transgress their constitutional limits or statutory power. (See Ashif Hamid v. State of J. andK. (AIR 1989 SC 1899), Shri Sitaram Sugar Co. v. Union of India (AIR 1990 SC 1277). The scope of judicial enquiry is confined to the question whether the decision taken by the Government is against any statutory provisions or it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution. Thus, the position is that even if the decision taken by the Government does not appear to be agreeable to the Court it cannot interfere.The correctness of the reasons which prompted the Government in decision making taking one course of action instead of another is not a matter of concern in judicial review and the Court is not the appropriate forum for such investigation.*
> *The policy decision must be left to the Government as it alone can adopt which policy should be adopted after considering all the*

[24] (1992) 13 SCC 495

points from different angles. In matter of policy decisions or exercise of discretion by the Government so long as the infringement of fundamental right is not shown Courts will have no occasion to interfere and the Court will not and should not substitute its own judgment for the judgment of the executive in such matters. In assessing the propriety of a decision of the Government the Court cannot interfere even if a second view is possible from that of the Government."

117. Also, as noted hereinabove, in ***Vinod Krishna Kaul***, this Court, while addressing challenges to the UF assigned to private unaided schools, held that deciding questions regarding the propriety of the assigned UF was beyond its jurisdiction.

118. One of the permissible grounds on which executive action can be challenged is 'illegality'. The scope of this ground was most famously explained by Lord Diplock in his judgment in ***Council of Civil Service Unions v. Minister for the Civil Service***[25], wherein he held that an executive action would be 'illegal' if it is in contravention of the statute empowering the concerned executive authority to act. This is precisely the challenge mounted by the petitioners and the subject matter of the instant issue. The aforesaid observations of Lord Diplock have since received judicial approval in India in various judgments, one of which is the judgment of the Supreme Court in ***S.R. Bommai and others v. Union of India and others.***[26]

119. Furthermore, the restraint exercised by Courts in entertaining petitions, if an adequate alternate dispute redressal mechanism exists and has not been availed by the petitioner, is self-imposed. It is only a judicially developed convention and not a rule. Writ Courts may entertain petitions even when alternative forums exist, if the facts of the case warrant judicial intervention, such as the present case, wherein the

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[25] [1985] AC 374 at 408

[26] (1994) 3 SCC 1

impugned executive action is contended to be *ultra vires* its enabling statutory provision. This legal position finds support in the decision of the Supreme Court in ***Harbanslal Sahnia v. Indian Oil Corpn. Ltd.***[27]. The relevant portion is extracted below, for reference.

> "*7. So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed, suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies: (i) where the writ petition seeks enforcement of any of the Fundamental Rights; (ii) where there is failure of principles of natural justice or, (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act and is challenged [See Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Ors., (1998) 8 SCC 11. The present case attracts applicability of first two contingencies. Moreover, as noted, the petitioners' dealership, which is their bread and butter came to be terminated for an irrelevant and non-existent cause. In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings.".*

120. An upshot of the aforesaid delineation indicates that this Court has jurisdiction to hear the instant challenge to Bye-law 14, as the act in question is alleged to be beyond the powers conferred by the statute. Having clarified the scope of this Court's jurisdiction in the present batch of matters, the impugned action may now be examined to decide whether it is *ultra vires* Section 116E of the DMC Act.

121. The relevant portion of Section 116E of the DMC Act is reproduced below, for reference.

> *"1. The annual value of any covered space of building in any ward shall be the amount arrived at by multiplying the total area of such covered space of building by the final base unit area value of such covered space and the relevant factors as referred to in clause (b) of sub-section (2) of section 116A.*

> *Explanation.-"covered space", in relation to a building, shall mean the total floor area in all the floor thereof, including the thickness of walls, and shall include the spaces of covered verandah and courtyard, gangway, garrage, common service area, staircase, and balcony including any area projected beyond the plot boundary and such other space as may be prescribed."*

122. The aforesaid Section provides that, in addition to the spaces explicitly mentioned in the Explanation, other spaces to be covered under the scope of the definition of 'covered space' may also be prescribed. The provision clearly provides an inclusive definition of "covered space" and gives expansive powers to the MCD to prescribe "*such other space*" to be included in the scope of the definition. Moreover, as held by the Supreme Court in ***Kotak Mahindra Bank,*** the interpretation of inclusive definitions must be broad. The relevant extract from the judgment is reproduced below, for reference.

> *"47. It is thus clear that it is a settled position of law that when the word "include" is used in interpretation clauses, the effect would be to enlarge the meaning of the words or phrases occurring in the body of the statute. Such interpretation clause is to be so used that those words or phrases must be construed as comprehending, not only such things, as they signify according to their natural import, but also those things which he interpretation clause declares that they shall include. In such a situation, there would be no warrant or justification in giving the restricted meaning to the provision."*

123. In the context of the aforesaid legal position, the petitioners' contention that Section 116E (4) of DMC Act mandates differential base values for the distinct areas having different uses is misconstrued in as much as the provision merely provides that, if different areas in a property are assigned different base unit area values, their annual value shall be the sum of the annual values of each distinct area computed separately. Section 116E(4) of DMC Act is reproduced below, for reference.:-

> "*If, in the case of any vacant land or covered space of building, any portion thereof is subject to different final base unit area values or is not self-occupied, the annual value of each such portion shall be*

computed separately, and the sum of such annual values shall be the annual value for such vacant land or covered space of building, as the case may be."

124. A plain reading of the provision would suggest that it could not be construed to be mandating the assignment of different base unit area values for different hotel areas earmarked for different uses. It is pertinent to note herein that Section 115A of the DMC Act mandates that every building shall be assessed as a single unit. Certain exceptions are carved out for buildings co-owned by different persons, or which are occupied by different people, but none for buildings having areas with distinct uses. This indicates legislative intent to authorise the assignment of a single base unit area for a property. Section 116E (4) of the DMC Act actually complements the Explanation to Section 116E (1) of the DMC Act. Whereas, Section 116E (1) of DMC Act provides for the general method of determination of annual value of a covered space by prescribing the multiplication of the total area of such covered space with the base unit area value, Section 116E(4) of DMC Act operates as a guiding factor in those cases wherein different base unit area values have been assigned to different portions. Therefore, until and unless, a case for assignment of different base unit area values for different portions of a covered space is made out, the calculation shall be carried out on the basis of the common base unit area value for the entire covered space. The different covered portions of the petitioner-hotels have not been assigned different values and therefore, the calculation proposed to be done as per the general method under Section 116E (1) of DMC Act, by treating different areas as a part of the same covered space, is in no manner an exercise of power beyond the statute.

125. Hence, Bye-law 14 is not *ultra vires* 116E of the DMC Act and the

challenge on this aspect is turned down.

126. The contention of some of the petitioners that, under the Delhi Development Act, 1957, the Master Plan and Zonal Plans formulated under Sections 7-11 of the DMC Act are accorded supremacy in respect of governing the use to which land is put, is equally unsustainable. An examination of the concerned provisions does not accord any such purported supremacy to the aforesaid Plans.

127. The other arguments of the petitioners seem to be arguments directed towards convincing the Court that the policy espoused in Bye-law 14 should not have been adopted. As far as the instant issue is concerned, as stated earlier, the jurisdiction of this Court extends only as far as determining the *vires* of the enabling statute. As noted hereinabove, adjudication on these questions is within the domain of the MTT constituted under Section 169 of DMC Act. Hence, these submissions may be made by the petitioners before the appropriate forum.

128. Thus, the Court finds that the challenge by petitioners to Bye-law 14, which includes non-FAR, non-revenue spaces such as basements and stilts within the definition of '*covered space*' for property valuation, is without merit. The inclusion of these areas aligns with the expansive definition provided under Section 116E of the DMC Act, which grants the MCD the authority to prescribe such spaces. The Court holds that Section 116E of the DMC Act does not mandate differential base area values for distinct areas within a property based on their use, and the imposition of a uniform base area value for the entire hotel complex is consistent with the statutory provisions. The challenge to the policy is ultimately a matter of legislative discretion and falls within the jurisdiction of the MTT, not this Court.

129. Moreover, it is pertinent to note herein that the inclusio

ancillary areas such as garages, service areas, basements, and other non-revenue generating spaces within the definition of '*covered space*' for property valuation purposes is not, in the view of this Court, arbitrary or unjust. The definition of '*covered space*' within the property tax framework aims to reflect the totality of a building's enclosed space, encompassing all areas that are part of the physical structure, regardless of their direct revenue-generating capacity. The rationale for including such ancillary spaces lies in the comprehensive approach to property valuation, which seeks to ensure that all parts of a building, irrespective of their specific use, contribute to the overall assessment of property value for taxation purposes. Furthermore, the spaces in question could not be held to be without any income-generating capacity in all cases.

130. It is essential to recognize that the determination of '*covered space*' is not confined solely to areas that directly generate income. The inclusion of garages, service areas, and basements is consistent with the legislative intent to account for all usable and constructed spaces within a building's footprint. These areas, while not revenue-generating in the traditional sense, are integral to the functioning of the building and, in many cases, support the primary commercial or residential activities of the property. Garages and service areas, for instance, facilitate the operation and maintenance of the building, and basements, while sometimes used for storage, often serve as critical infrastructure for the proper functioning of the premises. If not directly, their existence is often essential for the overall financial viability of the building and contributes to the income generation potential of the enterprise.

Issue no. (iii)

131. The issue at hand pertains to the compliance of the MVC recommendations with the procedural mandates outlined under Sec on

116A to 116C of the DMC Act, following the adoption of these recommendations by MCD. To properly adjudicate the instant issue, it is essential to understand the statutory framework established by the DMC Act and its subsequent amendments, particularly the procedures outlined in Sections 116A to 116C of DMC Act that govern the functions of MVC, including the classification of vacant lands and buildings and the fixation of base unit area values.

Statutory Framework and Procedural Mandates (Sections 116A to 116C of the DMC Act)

132. The statutory framework outlined in Sections 116A to 116C of the DMC Act provides the foundation as to how property classifications, BUAVs, and adjustment factors are to be determined for the purpose of property tax assessments in Delhi. Section 116A of DMC Act outlines the core responsibilities of the MVC, mandating it to recommend the classification of vacant lands and buildings into various colonies and groups, with careful consideration given to a range of factors, including settlement patterns, access to infrastructure, and the use of the property (residential, commercial, etc.). The MVC is also entrusted with the duty to propose base unit area values and factors for adjusting these values based on various characteristics of the properties.

133. However, the MVC's recommendations are not final upon their submission. Section 116B (1) of DMC Act further mandates that, after receiving the recommendations of MVC, the MCD must issue a public notice announcing the intention to adopt these classifications and specifying the proposed BUAVs and adjustment factors. The public notice serves as an invitation for stakeholders to come forward with any objections or suggestions they may have regarding the proposed classifications and valuations. Notably, these public notices must

followed by consultations, during which the MVC takes into account all representations and objections raised by stakeholders.

134. Furthermore, Section 116C of DMC Act establishes a more formalized process for dealing with objections, specifying the procedure for hearing and addressing any concerns raised by the stakeholders. These objections are referred to the MVC, which considers them and revises its recommendations as necessary. The final decision, after such revisions, is binding upon the MCD and must be implemented unless challenged through statutory remedies available to the affected parties, including the Hardship and Anomaly Committee constituted under Section 116K of the DMC Act.

135. These provisions form a comprehensive code by systematically outlining the entire process for property classification and the levy of tax**.**

Adherence to the Procedural Mandates.

136. MVC's compliance with the statutory framework laid out under Sections 116A to 116C of the DMC Act also needs to be delineated.

137. The process began with the issuance of public notices as early as 2002, following the enactment of the Amendment Act of 2003. These public notices invited public comments on the proposed Bye-laws, the classification schemes, the proposed UAV, and the use of multiplicative factors like the UF, suggested by the expert committee. Crucially, the notifications included definitions for various categories of properties.

138. Pursuant to the provisions of Section 116A of the DMC Act, the MVC I was constituted on 28.10.2003, and its role was to recommend classifications and base values for vacant lands and buildings across various wards of Delhi. While the statutory framework did not require public hearings to be held during the determination of multiplicative factors, the MVC I and MCD took proactive steps by issuing addition

public notices and inviting feedback from stakeholders.

139. The MVC's deliberations were exhaustive, with approximately 1,100 objections and suggestions being considered during the process. These representations were followed by public hearings in which stakeholders, including representatives from the hotel industry, were given an opportunity to present their objections and concerns.

140. As noted hereinabove, Public notices and hearings associated with the various MVCs commenced with MVC-I, where the MCD issued a public notice on 02.10.2003, followed by another on 30.10.2003 after the constitution. Subsequently, on 03.01.2004, a public notice was published inviting objections within 30 days. For MVC-III, the interim report was published for public scrutiny through an advertisement dated 02.01.2011, with information made accessible *via* official websites and zonal offices, followed by public hearings. For MVC-V, the public engagement process began with a notice uploaded on 24.08.2022, followed by a press publication on 25.08.2022. Public hearings on objections were conducted on 09.09.2022, 10.09.2022, 17.09.2022, and 24.09.2022.

Revision of Recommendations and Legal Basis for Enhancements

141. Moreover, one of the key issues at the heart of the instant dispute, insofar as it relates to procedural impropriety, is the MVC's ability to revise its recommendations following the public hearings.

142. It is noted that Section 116C (2) of the DMC Act clearly permits the MVC to revisit its earlier recommendations after considering objections from the stakeholders. There is no provision within the Act that imposes an embargo on the MVC's ability to enhance previously proposed values or factors. On the contrary, Section 116C (2) of the DMC Act, in conjunction with Bye-law 13, specifically empowers the MVC to revise its recommendations, including making upward adjustments to [illegible]

proposed values and factors if warranted by the facts presented during the objections process.

143. In practice, this flexibility was exercised when the MVC-I, after considering the feedback by the officials subsequent to its interim report, increased the UF for star-rated hotels. As delineated above, initially, in its interim report, the MVC proposed a UF-5 for star hotels, but following further deliberations and public input, this was revised upward to UF-10. This upward revision was well within the statutory scope of Section 116C (1) of the DMC Act, which does not impose any limitation on such revisions. The fact that these changes were made post-consultation highlights the MVC's responsiveness to stakeholder concerns and its adherence to the principles of fairness and reasonableness as mandated by the DMC Act.

Procedural Fairness – Handmaid of Justice

144. The robustness of the MVC's procedural compliance and the fairness of its decision-making process were judicially acknowledged in ***Vinod Krishan Kaul***. The Division Bench of this Court, in paragraph no. 47, emphasized that the MVC, in accordance with Section 116 of the DMC Act, had followed the necessary steps for determining the UAV and the multiplicative factors. The Court noted that objections were considered, hearings were granted, and changes were made to the recommendations based on the inputs received from stakeholders. The Court affirmed that all procedural safeguards had been adhered to, thereby reinforcing the legitimacy of the MVC's decisions and the statutory process itself. The relevant extract reads as under: -

> "*47.it is in this manner that the UAV (unit area value) and themultiplicative factors -- AF (Age Factor), OF (Occupancy Factor), UF (Use Factor) and SF (Structure Factor) – are determined and notified tothe public at large. As indicated in the*

counter affidavit filed on behalf ofthe MCD in WP(C) No. 8030 of 2003, all these steps were followed. It is also stated therein that the MVC constituted under section 116 had considered the objections received pursuant to the public notice dated 03.01.2004 issued by the MCD and had even recommended changes after giving the objectors opportunity of hearing. It is also stated that the classification of colonies/areas/localities is based on the parameters prescribed under the Act.

48. It is pertinent to note that the classification exercise conducted by the MVC has resulted in eight (8) categories (A to H) in which colonies/ areas/ localities in Delhi have been placed. Each of these categories has been prescribed a UAV, ranging from 630 per sq.m for Category A to 100 per sq.m for Category H. The Age Factor (AF) ranges rom 0.5, for covered spaces constructed prior to 1960, to 1, for covered spaces constructed in 2000 and thereafter. As regards the Occupancy Factor (OF), it is 1 if self-occupied and 2 if tenanted. The Use Factor (UF) varies from 1 for Residential and Public Purpose to 10 for StarHotels (3 star and above), Hoardings and Towers. The Use Factor for WP(C) No.8030/03 and Ors Page 51 of 62Industry, Entertainment, Recreation and Clubs has been specified as 3 and that of Utilities and Business as 2 and 4, respectively. Finally, the Structure Factor (SF) for pucca and semi-pucca buildings is 1, while it is 0.5 for kutcha buildings.

49. From the above discussion, it is apparent that clear guidelineshave been prescribed under the new regime for, first of all, classifyingcolonies/ areas/ localities in Delhi into different categories dependingupon the parameters as specified in clauses (a) to (j) of section 116A(1)and, secondly, for arriving at the base unit area values and themultiplicative factors. Thus, the provisions of section 116A and other related provisions cannot be regarded as being arbitrary or contrary to article 14 of the Constitution."

145. The legal position on natural justice and procedural fairness is fairly trite. It was extensively explored in ***Jesus Sales Corporation v. Union of India***,[28] wherein the Supreme Court held that the principle of natural justice is not a mere formality but an essential requirement for ensuring fairness in administrative action. The Court stressed that when procedural fairness is demonstrably ensured, the classification or administrative action cannot be faulted based on mere technical deviations. Similarly, in

[28] 2023 SCC OnLine Del 519

Swadeshi Cotton Mills Co. Ltd. v. Union of India[29], the Court clarified that procedural rules should not be interpreted in a manner that obstructs the fulfilment of the legislative intent.

146. In conclusion, the classification of star-rated hotels under UF-10 was the result of a thorough, lawful, and participatory process that adhered to the statutory provisions of the DMC Act and the constitutional mandate of fairness and reasonableness. The MVC's recommendations, which were subject to public consultation, were revised based on stakeholder feedback, and these revisions were well within the legal scope envisaged under Sections 116A to 116C of the DMC Act. The MCD's acceptance of the final recommendations, including the assignment of UF-10 to 3-star and above hotels, followed a transparent and inclusive process that complied with the principles of natural justice. The challenge to the imposition of UF-10 was, therefore, legally unsustainable, as the entire process met the statutory requirements and upheld the constitutional principles of fairness and reasonableness. It may also be noted that the statutory provisions outlining the process are not under challenge, and therefore, the examination could only pertain to the adherence or non-adherence to such provisions in their letter and spirit. As observed, the process is completely aligned with the provisions and has been carried out in accordance with the procedure established by law. Even otherwise, the provisions concerning the functioning of the MVC are copiously enshrined with the characteristics of natural justice, reasonableness, consultation and democratic participation of the stakeholders, and therefore, even the procedure in question does not suffer from any constitutional infirmity. In such a scenario, mere disagreement with the outcome of the process cannot be a ground of review, unless the process

[29] (2021) 1 SCC 664

itself is compromised, which is not the case herein.

Conclusion

147. Upon a conspectus of the aforesaid discussion, while answering the issues framed in paragraph 52, the Court has made the following determination:

i. The classification of hotels on the basis of star ratings does not suffer from the vice of arbitrariness or discrimination under Article 14 of the Constitution. The star-rating system, being an objective and universally recognised yardstick prescribed by the MoT, is a system of self-classification and furnishes an intelligible *differentia* distinguishing luxury hotels from ordinary hospitality establishments. The said classification bears a rational nexus with the legislative object of imposing a higher fiscal incidence on establishments catering to affluent clientele and availing premium amenities. Having voluntarily sought and obtained the benefits of star accreditation, the petitioners cannot now assail the consequential fiscal obligations, the doctrine of approbation and reprobation squarely operating against them. The uniform levy of UF-10 and property tax at the rate of 20% on 3-star and above hotels is, therefore, a valid exercise of legislative discretion and withstands scrutiny under Article 14 of the Constitution.

ii. Furthermore, the inclusion of non-FAR, non-revenue generating areas such as basements, stilts, service areas and garages within the definition of "*covered space*" under Bye-law 14 is *intra vires* Section 116E of the DMC Act. Section 116E itself adopts an inclusive definition of covered [illegible]

and empowers the MCD to bring additional areas within its sweep. When read with Section 115A of the DMC Act, which contemplates assessment of every building as a single unit, the legislative intent is clearly manifested that uniform valuation of the entire built-up area is permissible. The inclusion of ancillary areas within the tax base is, thus, neither arbitrary nor *ultra vires*, but a legitimate reflection of their integral role in enhancing the commercial utility of hotel establishments.

iii. The recommendations of the MVC, as adopted by the MCD, were in strict conformity with the procedure enshrined in Sections 116A to 116C of the DMC Act. The statutory scheme constitutes a self-contained code prescribing the classification of colonies, fixation of BUAVs, and determination of multiplicative factors, through a regime of public notice, invitation and consideration of objections, and revision of recommendations. The process culminating in the adoption of the MVC's recommendations by the MCD is, thus, held neither arbitrary nor *ultra vires*, but in faithful adherence to the legislative mandate.

148. In view of the aforesaid, the instant petitions, along with pending applications, stand disposed of, subject to liberty granted in paragraph no. 51. No order as to costs.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

SEPTEMBER 12, 2025
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