

IN THE COURT OF SH. AMIT KUMAR :
ADDL. DISTRICT & SESSIONS JUDGE-CUM-PRESIDING OFFICER,
APPELLATE TRIBUNAL, M.C.D., DELHI.

APPEAL NO. 372/ATMCD/2021

**Shri Ravi Batra
Managing Partner
M/s United Engineers
At 2 Factory Road
New Delhi-110029**

..... Appellant

Versus

**New Delhi Municipal Council,
Through its Chairperson,
Palika Kendra, Parliament Street
New Delhi – 110001**

.....Respondent

Date of Filing of Appeal : 26.10.2021
Date of Judgment : 03.06.2026

JUDGMENT

1. This is an appeal challenging the sealing order dated 05.04.2021 passed in respect of basement (right) and basement (rear) (here in after referred as subject property) of premises no. 2, Blue Apartments, Factory Road, New Delhi for operating an office in basement (right) and training center in basement (rear) of Blue Pottery in Premises No. 2, Blue Apartments, Factory Road, New Delhi.
2. The brief facts necessary for disposal of this appeal as per appeal are that this property no. 2, blue apartments has number of flats owned by different persons and the basement is stated to be in possession of the appellant which is a partnership firm. As per appellant firm, Mr. Ravi Batra who is the managing partner of the firm is a professional holding degree in Civil Engineering and carrying out consultancy in the name of M/s United Engineers (appellant here in) from the basement which is permitted under Mix Land Use Regulations of Master Plan Delhi-2021(MPD-2021). The property was inspected in 2018 and Mr. Ravi Batra was found running his office and he filed documents as advised by the respondent. As per appeal, the basement

was sealed on 16.04.2021 without notice and later, it revealed to the appellant that a show cause notice was served in February 2021 upon Blue Pottery run by a trust known as Delhi Blue Pottery Trust of which Mr. Ravi Batra is a trustee. This notice was replied by the trust through Mr. Ravi Batra stating that trust has no office in the basement nor any pottery classes are being held for more than a year on account of pandemic. The respondent passed the impugned order and sealed the property.

3. The appellant has challenged this order on the ground that no show cause notice was served upon the appellant. The Principles of Natural Justice were violated. Clause 15.8 of MPD-2021 permits the basement to be used by professionals for their office. It cannot be said as misuse. There is no evidence to show that premises were used by Blue Pottery for commercial purposes. There is no misuse as alleged in the property. The appellant has been regularly paying the property tax of premises no. B-2 (subject property), property no. 2, Blue Apartments, Factory Road. The show cause notice did not specify whether the misuse is in premises number B-1 or B-2. There are four portions in the basement and there is no misuse in the portion B-2(subject property). The respondent failed to establish business of Blue Pottery being done from portion B-2. The portion bearing no. B-1 has already been de-sealed on payment of misuser charges and therefore, the appeal should be allowed and the sealing order should be set aside.
4. Ld. counsel for respondent on the other hand argued that the show cause notice was duly replied by Mr. Ravi Batra who happened to be a trustee of the trust as well as partner of M/s United Engineers/appellant and cannot claim that the partnership firm was not having the knowledge of show cause notice. The partnership deed of appellant is completely silent about the alleged consultancy business alleged to be run from the sealed premises. The municipal number of the property is property no. 2, Blue Apartments and the numbers B-1, B-2 etc. are the private numbers given by the owners of the property. Even the appeal is silent in respect of the property number of the subject premises. During inspection, it was found that the subject premises is being used by Delhi Blue Pottery Trust for pottery classes which amounts to misuse and therefore, the appeal should be dismissed.

5. I have perused the record. The show cause notice dated 03.02.2021 was issued to the owner/occupant for the subject property being used for running training center and office of Blue Pottery. This show cause notice was duly replied by Mr. Ravi Batra as a trustee of Delhi Blue Pottery Trust. Mr. Ravi Batra is also the managing partner of the appellant M/s. United Engineers. Once Mr. Ravi Batra had the knowledge of this show cause notice as a trustee, he cannot dispute that the partnership firm had no knowledge of this show cause notice. The partnership firm has no legal entity and the service of the show cause notice on one of the partners who happened to be the trustee of the trust is proper service. Mr. Ravi Batra cannot claim that he was not served in his capacity as a partner of the appellant firm and was served only as a trustee of the trust. Further, in this reply dated 24.02.2021, the trust through Mr. Ravi Batra did not dispute that the pottery classes were held in the sealed premises. It was stated that the classes are not being held for more than a year on account of pandemic. This clearly show that the pottery classes were being run from the subject premises. The show cause notice was duly served and there is admission on the reply that pottery classes were held, though not presently.
6. Further, the appeal is completely silent as to how the appellant is in possession of the basement of the property. In para 7 (i) of the appeal it is only stated that the appellant is in possession of the basement but it is not explained how and under which right and what capacity. However, the documents filed by the appellant with the appeal are relevant. As per the list of the document dated 19.05.2023, an Agreement to Sell dated 16.10.1996 was executed between M/s Delhi Blue Pottery Trust and M/s United Engineers/appellant for a flat measuring approximately 393 sq. ft. in the basement of the rear side of property no. 2, Factory Road. Through this agreement, the partnership firm agreed to purchase this flat from the trust and Mr. Ravi Batra executed this agreement as a trustee of the trust. Vide this Sale Agreement, only a flat measuring 393 sq. ft. was purchased by the appellant whereas as per the property tax receipt filed by the appellant along with this appeal, the area of the flat increased to 1380 sq. feet. The appellant has not disclosed that when the partnership firm purchased only 393 sq. ft., then how the area increased to 1380 sq. ft. in the property tax deposited by

the partnership firm through its partner Mr. Gurcharan Singh. Further, the misuser charges of the sealed premises were calculated after temporary de-sealing which show that the area lying sealed is about 288.26 sq. meter equivalent to 3100 sq. ft. The appellant has failed to explain that how for a purchased area of 393 sq. ft. purchased by it on 16.10.1996, the property tax was deposited for 1380 sq. ft. whereas the property lying sealed is almost 3100 sq. ft. The contention of the learned counsel for the respondent appears to be correct that the numbers B-1, B-2 etc. are the private numbers given by the owners/occupants and the sizes keeps on changing.

7. Though, the property known as B-1 rear portion basement has been de-sealed on deposit of misuser charges, the appellant cannot take any benefit of that by stating that there is no misuse in the subject-property known as B-2. Though the gas connections, property tax return are in bearing number B-2, lower ground floor, but the size of the same remains a question unanswered by the appellant. The office record also show that Mr. Mansimran Singh who is a trustee of Delhi Blue Pottery Trust and is son of Mr. Gurcharan Singh who is partner of the appellant firm, wrote a letter on 24.07.2021 to the Monitoring Committee admitting that the trust is running its office from basement of property no. 2, Factory Road, New Delhi though stated to be from B-1.
8. Further, in the reply to the show cause notice also there is admission of running pottery classes from the basement. In another letter dated 04.08.2007 written by Mr. Ravi Batra to NDMC, there is admission that pottery classes are being run in the portion in the rear basement.
9. In these facts, the property was being misused for running pottery classes and the office of the Delhi Blue Pottery Trust, the appeal has no merits and is liable to be dismissed and the same is dismissed.
10. Record of the respondent, if any, be returned along with copy of this order and appeal files be consigned to record room.

**Announced in the open Court
today i.e. on 03.06.2026**

(AMIT KUMAR)
Addl. District & Sessions Judge-cum-P.O.
Appellate Tribunal, MCD, Delhi