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

APPEAL NO. 489/ATMCD/16

M/s Rathi Bars Ltd.,
Through its Director
Shri R.K. Sharma
A-24/7, Mohan Co-operative
Industrial Estate, Main Mathura Road
New Delhi-110044. …….. Appellant

Vs

South Delhi Municipal Corporation,
Through its Commissioner
Civic Centre, Jawahar Lal Nehru Marg,
New Delhi-110002. …….Respondent

Date of Filing of Appeal : 03.05.2016
Date of Order : 24.07.2026

<u>ORDER</u>

1. This is an appeal challenging the sealing order dated 28.03.2016 vide which the respondent directed the property of the appellant bearing no. A-24/7, Mohan Cooperative Industrial Estate, Main Mathura Road, New Delhi-110044 to be sealed for non-payment of conversion charges.
2. The brief facts necessary for disposal of this appeal are that the appellant is a limited company and owner of this property initially permitted to be used for industrial purposes. The respondent announced a policy dated 07.06.2010 permitting conversion of industrial plots to commercial plots on payment of conversion charges. The charges were to be paid w.e.f. 07.02.2007.
3. The appellant paid conversion charges of Rs. 30,39,575/- on 30.05.2012 for the period from 2007-2008 to 2011-2012 with interest calculated from

07.06.2010 when this policy was announced. The appellant subsequently also paid conversion charges of around of Rs. 18.85 lacs on different dates for the year 2011-2012 to 2014-2015. The respondent issued a show cause notice dated 29.01.2016 u/s 345-A of DMC Act seeking payment of misuser charges with interest from 07.02.2007. The same duly replied by the appellant stating the interest is payable from 07.06.2010 and not from 07.02.2007 which he has already paid and the respondent thereafter passed the impugned sealing order.

4. The appellant has challenged this order primarily on the ground that the interest shall be payable only from 07.06.2010 when the policy was announced and not from which 07.02.2007 from when the misuser charged were to be paid.

5. It was argued for the appellant that the appellant is not liable to pay interest from 07.02.2007, since the policy dated 07.06.2010 is silent in respect of payment of interest. The appellant did not avail the facility of payment of conversion charges in excess of Rs. 25 lacs in installments as provided under this policy and deposited the entire arrears more than 30 lacs on 30.05.2012 with interest and therefore the demand to pay interest from 07.02.2007 is unlawful and the sealing order should be set-aside. Ld counsel for the appellant in this regard placed reliance on the judgments passed by the Hon'ble Supreme Court of India in CIT Vs. Mado Prasad Jatia (1976) 105 ITR 179(SC) and CIT Vs. Kullu Valley Transport Company Pvt. Ltd. (1970) 77 ITR 518 (SC).

6. Ld counsel for the respondent/MCD on the other hand argued that as per initial policy dated 15.02.2010 which merged with policy dated 07.06.2010, the interest is payable w.e.f 07.02.2007 and this opinion was given by the Chief Engineer (Build.) in the minutes of the meeting dated 06.04.2017 and therefore the appeal is without merit and is liable to be dismissed.

7. I have perused the record. As per policy dated 07.06.2010, this policy was in supersession of the previous order dated 15.02.2010 and therefore the argument of the ld counsel for the respondent that the terms of the policy dated 15.02.2010 should also be considered is meritless.

8. Coming to the policy dated 07.06.2010, this policy is completely silent in respect of payment of interest on the conversion charges to be paid w.e.f. 07.02.2007. This policy only states that if the conversion charges are in excess of Rs. 25 lacs, the excess amount can be paid in five equal installments with simple interest @ 14% per annum. Once this policy is silent in respect of payment of interest on the conversion charges already accrued between 07.02.2007 till the date of policy dated 07.06.2010, the respondent cannot seek interest w.e.f. 07.02.2007.
9. It cannot be interpreted in favour of the respondent that once the policy is silent in respect of payment of interest on arrears, the same shall be from the date when the conversion charges are payable i.e. 07.02.2007. The respondent cannot claim interest from back date once there is no such terms and conditions in the policy.
10. The appellant is liable to pay the interest only from the date of policy which is 07.06.2010 and not from 07.02.2007.
11. In these facts, the impugned sealing order seeking payment of interest on the conversion charges from 07.02.2007 is not sustainable and is set-aside. The appellant is liable to pay interest only from 07.06.2010 and subject to payment of interest from this date, the appeal is allowed and the sealing order is set-aside. If the appellant has not paid interest from 07.06.2010, he is directed to pay the same within 4 weeks from today and if the same already paid the impugned sealing order stands quashed.
12. The appeal is disposed of.
13. Record of the respondent, if any, be returned along with copy of this order and appeal file be consigned to record room.

Announced in the Open Court,
Today i.e. on 24.07.2026

(AMIT KUMAR)
District Judge-cum-P.O.
Appellate Tribunal : MCD Delhi