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IN THE HIGH COURT OF DELHI AT NEW DELHI

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

+ W.P.(C) 5340/2016, CM APPLs. 22256/2016 & 24198/2019

Between: -

DELHI FACTORY OWNERS' FEDERATION
A SOCIETY REGD. UNDER THE SOCIETIES
REGISTRATION ACT,
HAVING ITS REGISTERED OFFICE AT
75, GROUND FLOOR, SANT NAGAR,
EAST OF KAILASH, NEW DELHI-110064.

THROUGH ITS AUTHORIZED REPRESENTATIVE
MR. SAMEER NAYYAR

....PETITIONER

And

SOUTH DELHI MUNICIPAL CORPORATION
THROUGH ITS COMMISSIONER.
CIVIC CENTRE, MINTO ROAD,
NEW DELHI.

....RESPONDENT NO.1

EAST DELHI MUNICIPAL CORPORATION
THROUGH ITS COMMISSIONER,
419, FIE, UDYOG SADAN,
PATPAR GANJ, NEW DELHI-110092.

....RESPONDENT NO.2



NORTH DELHI MUNICIPAL CORPORATION
THROUGH ITS COMMISSIONER,
CIVIC CENTRE, MINTO ROAD,
NEW DELHI.

....RESPONDENT NO.3

DELHI DEVELOPMENT AUTHORITY
THROUGH ITS VICE CHAIRMAN,
VIKAS SADAN, NEAR INA MARKET,
NEW DELHI-110092.

....RESPONDENT NO.4

GOVT. OF NCT OF DELHI
THROUGH THE OFFICE OF
COMMISSIONER OF INDUSTRIES
419, FIE, UDYOG SADAN,
PATPAR GANJ, NEW DELHI.

....RESPONDENT NO.5

UNION OF INDIA
THROUGH MINISTRY OF URBAN DEVELOPMENT,
NIRMAN BHAWAN, MAULANA AZAD ROAD,
NEW DELHI.

....RESPONDENT NO.6

DELHI STATE INDUSTRIAL INFRASTRUCTURE
DEVELOPMENT CORPORATION LTD.
THROUGH ITS CHAIRMAN,
3RD FLOOR, MCD PROPERTY TAX BUILDING,
NEAR LAJPAT NAGAR FLYOVER,
MAHATMA GANDHI ROAD,
BLOCK L, LAJPAT NAGAR III,
NEW DELHI-110024

....RESPONDENT NO.7

With

W.P.(C) 3718/2012, W.P.(C) 5675/2016 & CM APPL. 23488/2016,
W.P.(C) 5706/2016 & CM APPL. 23575/2016, W.P.(C) 6027/2016
& CM APPL. 24791/2016, W.P.(C) 8251/2016, CM APPL.
34198/2016 & 5215/2018, W.P.(C) 3770/2017 & CM APPL.
16590/2017, W.P.(C) 12247/2021 & CM APPL. 38313/2021,
W.P.(C) 4120/2021, CM APPL. 12542/2021 & 15144/2021,

Signature Not Verified

Signed By:AMIT KUMAR
SHARMA
Signing Date:05.07.2025
17:52:16

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Signature Not Verified

Signed
By:PURUSHAINDRA
KUMAR RAURAV



W.P.(C) 9711/2021 & CM APPL. 29963/2021, W.P.(C) 9959/2021, CM APPL. 35759/2021 & 35760/2021, W.P.(C) 875/2023 & CM APPL. 3398/2023, W.P.(C) 1186/2023 & CM APPL. 4542/2023, W.P.(C) 14127/2023 & CM APPL. 55860/2023, W.P.(C) 15750/2023 & CM APPL. 63286/2023

APPEARANCES

For Petitioners:-

Mr. Dayan Krishnnan, Sr. Adv. with Mr. Varun Goswami, Mr. Sahil Agarwal, Mr. Hritik Chaudhary, Ms. Dakshita Sharma and Mr. Makyam Junaid, Advs. in W.P.(C)-875/2023.

Mr. Jayant Mehta, Sr. Adv. with Mr. Anirudh Wadhwa, Mr. Aditya Mittal and Ms. Jasleen Virk, Advs. in W.P.(C)-5340/2016.

Mr. Varun Goswami, Mr. Sahil Agarwal and Mr. Maryam Junaid, Advs. in W.P.(C)-6027/2016, W.P.(C)-9959/2021 & W.P.(C)-1186/2023..

Mr. Vivek Kumar Tandon, Ms. Prerna Tandon, Ms. Shivani Ghosh and Ms. Mamta Tandon, Advs. in W.P.(C)-8251/2016 and W.P.(C)-3770/2017.

Mr. Avadh Bihari Kaushik and Mr. Rishabh Kumar, Advs. in W.P.(C)-4120/2021.

Mr. Amit Gupta and Mr. Muskan Nagpal, Advs in W.P.(C)-12247/2021.

Mr. Pushkar Sood, Ms. Sikha Sood, Mr. Anshuman Sood and Mr. Samarth Sood, Advs. in W.P.(C)-3718/2012, W.P.(C)-14127/2023 & W.P.(C)-15750/2023.

Mr. B. L. Walli, Mr. Dhan Mohan, Ms. Tanisha and Ms. Nikita Jha, Advs. in W.P.(C)-5706/2016.

Mr. Vijay Kasana, Adv. in W.P.(C)-15750/2023.

Mr. Manish Kaushik, Mr. Ajit Singh Joher, Mr. Yashpriya Sahran, Advs. in W.P.(C)-12247/2021.

Mr. Avadh Bihari Kaushik, Adv. in W.P.(C)-4120/2021.

For Respondents:-

Mr. Vivek Goyal CGSPC with Mr. Gokul Sharma, Advs. for respondent/UOI in W.P.(C)-3718/2012.

Mr. Mukesh Gupta, Mr. Sachin Singh Shahi, Ms. Shashi Gupta, Ms. S. Sharma and Mr. Arnav Gupta, Adv. SC for MCD.

Ms. Saroj Bidawat, SPC for UoI in W.P.(C)-5706/2016.



Mr. Animesh Kumar Gaba and Mr. Jatin Sharma, Advs. for DDA.
 Mr. Manish Mohan, CGSC with Mr. Jatin Teotia Adv. for UoI in W.P.(C)-5340/2016.
 Mr. Prasanta Varma, ASC with Ms. Richu, Ms. Pragya Vaarma and Mr. Himanshu Mittal, Advs. for SDMC in W.P.(C)-3770/2017.
 Ms. Sweety Singh, Adv. in W.P.(C)-14127/2023 and W.P.(C)-15750/2023.
 Mr. Bhagwan Swarup Shukla, CGSC with Mr. Satyam Kumar, Adv. for UOI in W.P.(C)-5675/2016.
 Mr. Vikas Chopra, SC for MCD.
 Ms. Sunita Ojha, Adv. for MCD in W.P.(C)-5340/2016, W.P.(C)-6027/2016, W.P.(C)-8251/2016, W.P.(C)-9711/2021 and W.P.(C)-875/2023.
 Mr. Anuj Chaturvedi, SC, Ms. Richa Dhawan, SC, Ms. Harshita Maheshwari, Ms. Shahana Farah and Ms. Sanna, Advs. for DDA in W.P.(C)-3770/2017 and W.P.(C)-15750/2023.
 Mr. Gaganmeet Singh Sachdeva and Mr. Harshpreet Singh, Advs. for DDA in W.P.(C)-5340/2016.
 Mr. Tushar Sannu and Mr. Aman Kumar, Advs. in W.P.(C)-5675/2016 and W.P.(C)-8251/2016.
 Ms. Vaishali Gupta, PC, GNCTD in W.P.(C)-15750/2023.
 Ms. Avni Singh, PC, GNCTD in W.P.(C)-3770/2017.
 Mr. Vikas Chopra, SC for MCD. in W.P.(C)-3718/2012 to W.P.(C)-1186/2023.
 Ms. Rachita Garg and Mr. Agam Rajput, Advs. for SHO in W.P.(C)-5706/2016.
 Mr. Kapil Dutta, Adv. for MCD.
 Ms. Ramapati Mishra, Adv. for R-DDA
 Mr. Vikrant Narayan Vasudeva and Mr. Rohit, Advs. for DSIIDC in W.P.(C)-5340/2016 and W.P.(C)-875/2023.
 Mr. Farman Ali, SPC with Ms. Usha Jamnal, Advs. for DDA in W.P.(C)-3718/2012.
 Mr. Anuj Chaturvedi, SC, Ms. Richa Dhawan, SC, Ms. Harshita Maheshwari, in W.P.(C)-5675/2016, W.P.(C)-5706/2016, W.P.(C)-9959/2021 and W.P.(C)-14127/2023.
 Mr. M.K. Singh, Adv. for R-DDA in W.P.(C)-5706/2016.
 Mr. Dhruv Rohatgi and Ms. Chandrika Sachdeva, Advs. for Respondent No.5 in W.P.(C)-5340/2016.
 Mr. Sanjay Vashishtha, SC, MCD with Ms. Harshita Rai, Mr. Siddhartha Goswami and Ms. Gunjan Rathore, Advs. in W.P.(C)-5340/2016 & W.P.(C)-9959/2021.



Ms. Sunita Ojha, SC for MCD with Mr. Vasudha Priyansha and Ms. Divita, Advs. in W.P.(C)-875/2023.
Mr. Akhil Mittal, SC for MCD.

% Reserved on: 28.04.2025
Pronounced on: 04.07.2025

J U D G M E N T

The present batch of writ petitions assails the exercise of power by the Municipal Corporation of Delhi [MCD] to levy conversion charges on petitioners for carrying out commercial activities in industrial areas. The seminal issue arising for the consideration of this Court is “*whether the show cause notices issued by the MCD to collect conversion charges are without jurisdiction?*”

2. W.P.(C.) No. 5340 of 2016 titled as ***Delhi Factory Owners’ Federation v. South Delhi Municipal Corporation & Ors.*** has been designated as the lead matter, and the relevant facts are drawn primarily from this petition, however, a brief description including the facts and relief of other writ petitions shall also be taken into consideration, whenever its necessary.

3. In W.P.(C) No. 5340 of 2016, the petitioner is a society registered under the Societies Registration Act, 1860. Its members are stated to be owners and operators of industrial units in Delhi, engaging in industrial activities, including Knowledge-Based Industry [KBI] and Information Technology Enabled Services [ITES]. The petitioner primarily operates in Okhla Industrial Estate, Phase-III, New Delhi, occupying plots which were allotted for industrial purposes. However, the MCD alleges that the petitioner is using the premises for

commercial offices, constituting a commercial activity warranting the levy of conversion charges. The petitioner seeks to challenge the office order dated 07.06.2010 issued by the MCD, whereby the MCD sought to levy conversion charges, along with all consequent notifications, orders, and circulars issued pursuant thereto. The petitioner also seeks an order restraining the respondents from taking any coercive action against it.

4. In W.P.(C) No. 875 of 2023 titled as ***Tushar Kapoor & Ors. v. Municipal Corporation of Delhi & Ors.***, the petitioners challenge the Show Cause Notice [SCN] dated 14.12.2022, which seeks to levy conversion charges for operating banquet halls in various industrial areas. The petitioners contend that, following the enactment of the **Delhi Industrial Development, Operation and Management Act, 2010** [DIDOMA Act, 2010] and the Rules framed thereunder, namely the **Delhi Industrial Development, Operation and Maintenance Rules, 2011** [DIDOMA Rules], the MCD is no longer vested with the jurisdiction to collect conversion charges in areas administered by the Delhi State Industrial and Infrastructure Development Corporation Ltd. [DSIIDC]. The petitioners assert that under the said legislative framework, only the DSIIDC has the authority to levy such charges.

5. In W.P.(C) No. 3718 of 2012 titled as ***Patparganj FIE Entrepreneurs v. East Delhi Municipal Corporation & Ors.***, the petitioner represents factory owners located in the Patparganj Industrial Area, which reportedly houses approximately 600 factories. The petitioner asserts that multiple car showrooms are operating from various plots within this industrial area.



6. In W.P.(C) No. 12247 of 2021 titled as ***Supreme Motors Private Limited v. North Delhi Municipal Corporation & Anr***, the premises of the petitioner therein are located in the Najafgarh Road Industrial Area, Kirti Nagar, where a substantial portion of the property has been leased to M/s. Adventure Auto Car India Ltd. for an automobile showroom and workshop. The petitioner claims that the showroom is operating solely in the portion of the premises that has been converted for commercial use, while the remaining area retains its industrial designation and is being used as an automobile repair centre.

7. In W.P.(C) No. 8251 of 2019 titled as ***Apex Chamber of Commerce & Industry of NCT of Delhi v. South Delhi Municipal Corporation***, the petitioner states that it is engaged in KBI and ITES. Additionally, some members of the petitioner are running an institute under the name and style of Pearl Academy, which primarily offers IT-related classes.

8. In W.P.(C) No. 875 of 2023 titled as ***Tushar Kapoor & Ors v. Municipal Corporation of Delhi & Ors.***, W.P.(C) No. 6027 of 2016 titled as ***Seven Seas Hospitality Private Limited and Anr. v. North Delhi Municipal Corporation***, W.P.(C) No. 9959 of 2021 titled as ***Community Welfare Banquet Association Delhi Registered vs. North Delhi Municipal Corporation & Ors.***, and W.P.(C) No. 1186 of 2023 titled as ***Rakesh Kumar v. Municipal Corporation of Delhi and Anr.***, the petitioners are represented by Mr. Dayan Krishnan, learned senior counsel, assisted by Mr. Varun Goswami. Mr. Krishnan has advanced the following principal submissions:-



I. Jurisdictional Limitation of MCD Post-Enactment of the DIDOMA Act, 2010 and DIDOMA Rules, 2011:-

- i. After the enactment of the DIDOMA Act, 2010 and the corresponding DIDOMA Rules 2011, the MCD is no longer vested with the power to collect conversion charges in industrial areas administered by the DSIIDC. He asserts that DSIIDC alone is empowered to levy such charges, if at all, the situation arises.

II. Scheme of the DIDOMA Act, 2010 and DIDOMA Rules, 2011:-

- i. Explaining the framework of the DIDOMA Act, 2010 and the Rules, learned senior counsel submits that the Act provides a comprehensive mechanism for the establishment, operation, and administration of industrial areas in the NCT of Delhi. He highlights that the functions of the DSIIDC include comprehensive management of all industrial estates previously under the jurisdiction of MCD. The DIDOMA Act, 2010 explicitly envisages the transfer of these estates/areas from the MCD to the DSIIDC.
- ii. Under Section 5 of the DIDOMA Act, 2010, the DSIIDC is empowered to recover development charges. Section 6 authorises the recovery of service charges and Section 8 provides for the creation of a fund to be credited with revenues such as ground rent and other charges necessary for administering these areas, which would include conversion charges.

- iii. He emphasizes that the DIDOMA Act, 2010 constitutes a self-contained Code granting the DSIIDC exclusive authority to administer industrial areas and collect fees and charges integral to such administration, thereby excluding the jurisdiction of the MCD.
- iv. Learned senior counsel also refers to the counter affidavit filed by the DSIIDC in W.P.(C) No. 5340 of 2016, which indicates that the conversion charges collected for conversion from leasehold to freehold properties were transferred by the Delhi Development Authority [DDA] to the DSIIDC.

III. Permissibility of Banquet Halls in Industrial Areas under Master Plan for Delhi, 2021 [MPD 2021]:-

- i. Learned senior counsel points out that the operation of banquet halls in industrial areas is permitted under Clause 7.8 of the MPD 2021, subject to the payment of conversion charges as prescribed by the Central Government to the DDA.

IV. Role of DDA and Notifications issued:-

- i. He draws attention to a notification dated 25.02.2009, highlighting that the DDA, acting on directions from the Central Government under the MPD 2021, has periodically issued notifications specifying the amount of conversion charges payable. He further states that the Banquet Halls Regulations, 2010, issued by the DDA on 21.09.2012, provide for a comprehensive scheme for the administration of the banquet halls.

- ii. Regulation 6 of the Banquet Halls Regulations, 2010, stipulates that conversion charges are to be paid to the concerned local body at rates determined by the DDA with Central Government approval.

V. DSIIDC as a Local Authority:-

- i. He contends that the DSIIDC qualifies as a “local authority” under Section 3(31) of the General Clauses Act, 1897, as it is entrusted by the Government with the management of a municipal or local fund. This classification, according to him, strengthens the argument that DSIIDC, and not the MCD, is the appropriate authority for administering industrial areas and collecting related charges, including conversion charges.

9. Mr. Amit Gupta, learned counsel appearing on behalf of the petitioner in W.P.(C) No. 12247 of 2021 titled as ***Supreme Motors Private Limited through its Director Anuj Sanghi v. North Delhi Municipal Corporation through the Commissioner & Anr.***, supplements the submissions advanced by learned senior counsel. He submits that the petitioner owns a freehold plot bearing No.19, situated in the industrial area of Najafgarh Road, Moti Nagar, New Delhi. The plot encompasses an area of 43,125 sq. ft, which includes a building, sheds, and open spaces. Learned counsel further states that Najafgarh Road is designated as an industrial area. The petitioner has made a one-time payment of ₹34,07,435/- on 08.01.2013, for the conversion of 355 sq. mtrs. of the property for commercial purposes. This payment, he contends, was made in accordance with the



prescribed rates and applicable norms under the provisions of the MDP 2021.

10. The SCN is additionally challenged on the ground that the provisions of the **Delhi Municipal Corporation Act, 1957** [DMC Act] do not confer the MCD with the authority to levy conversion charges. It is asserted that, in the context of an industrial area, only the DSIIDC is empowered to collect such charges. Learned counsel further contends that running an automobile workshop repair centre constitutes an industrial activity under the applicable norms, and therefore, no conversion charges are payable in such circumstances.

11. Learned counsel has drawn the attention of the Court to various notifications, including those dated 10.10.2008, 23.12.2008, and 25.02.2009, to argue that the DDA under Section 57 of the **Delhi Development Act, 1957** [DD Act], with the prior approval of the Central Government, is empowered through the **DDA [Fixation of Charges for Mixed Use and Commercial Use of Premises] Regulations, 2006**, to prescribe various charges for such purposes. Learned counsel contends that the MCD lacks requisite jurisdiction in this regard.

12. He further submits that under the scheme of the MPD 2021, even in industrial areas, a certain portion is permissible for commercial use. Moreover, across the National Capital Territory [NCT] of Delhi, the local authority for imposing and collecting conversion charges may vary depending on the location of the premises. In the present case, the area where the petitioners are operating falls under the jurisdiction of the DSIIDC. Consequently, it

is the DSIIDC, and not the MCD, that is authorised to recover the prescribed conversion charges under the regulations of DDA.

13. Learned counsel further submits that the MPD 2021 carries the force of law, as affirmed by the Supreme Court in the case of ***M.C. Mehta v. Union of India***¹. He contends that the provisions and guidelines stipulated under the MPD 2021 must be adhered to, as they hold statutory authority and govern the regulation and usage of industrial and commercial areas in the NCT of Delhi.

14. In W.P.(C) 4120 of 2021 titled as ***Chintpurni Overseas Private Limited v. North Delhi Municipal Corporation & Ors.***, learned counsel Mr. Avadh Bihari Kaushik submits that the facts and issues in his case are substantially similar to those raised in W.P.(C) 875 of 2023, for which detailed submissions have already been advanced by Mr. Dayan Krishnan, learned senior counsel. In addition to adopting those arguments, learned counsel further asserts that the required conversion charges were already paid by the petitioner at the time of obtaining the health license. Consequently, he submits that the levy of additional conversion charges by the MCD is without justification.

15. In W.P.(C) 3770 of 2017 titled as ***Ansh Hotel & Resorts Private Limited v. North Delhi Municipal Corporation & Ors.***, learned counsel Mr. Vivek Kumar Tandon submits that the petitioner operates a banquet hall, and the issues in this case are analogous to those in W.P.(C) 875 of 2023, which have already been addressed. Additionally, he states that W.P.(C) 8251 of 2016 is similar to W.P.(C) 5340 of 2016, where the petitioners are engaged in IT-

¹ (1996) 8 SCC 462.

enabled services. He emphasizes that in W.P.(C) 8251 of 2016, the petitioner runs an academy dedicated to teaching IT-related subjects, which, according to him, by no stretch of imagination, could be categorized as a commercial activity.

16. In W.P.(C) 5340 of 2016, learned counsel Mr. Aditya Mittal submits that the petitioners are primarily engaged in industrial activities, including KBI and ITES. He contends that the office order dated 07.06.2020, along with the consequent actions taken by the respondent authorities, dehors the scope of the law and, therefore, untenable.

17. Vehemently opposing the contentions raised by learned counsels for the petitioners, Mr. Sanjay Poddar, learned senior counsel appearing on behalf of the MCD, has advanced the following broad submissions:-

- I. The scope, objects and functions of the MCD and the DSIIDC are entirely distinct. The MCD, being one of the concerned local authority/body, regulates building activities across the majority of areas within the NCT of Delhi and holds exclusive prerogative to sanction building plans within areas falling under its jurisdiction, including industrial zones. Reliance has been placed on By-law No. 1.1 of the Unified Building By-laws, 2016, which states that these unified by-laws apply to all areas under the jurisdiction of the DDA and concerned local bodies, granting them the authority to sanction or refuse building plans.
- II. The developmental activities within the Union Territory of Delhi are predominantly regulated under the Master Plan, Zonal



Plans, and Layout Plans. Whereas the Master Plan and Zonal Plans are prepared by the DDA, the Layout Plans are generally sanctioned by the MCD exercising powers under Section 313 of the DMC Act, 1957. An exception to this general principle arises in cases where an area is specifically declared as a “development area,” in which scenario, sanction of the Layout Plan is required to be obtained directly from the DDA under Section 12 of the DD Act.

III. The MPD 2021, being the third successive master plan following those of 1962 and 2001, provides, *inter alia*, for the relaxation of zoning restrictions to facilitate the regularization of non-conforming areas, subject to compliance of the conditions and regulations prescribed by the DDA from time to time. Prior to the utilization or disposition of any land, the owner is mandated to obtain sanction of the layout plan in accordance with Section 313 of the DMC Act. Sub-section (5) of Section 313 expressly prohibits the utilization, sale, or any other manner of dealing with land or layout except in conformity with the orders of the Standing Committee. Furthermore, Section 340(2) vests the Corporation with the authority to enforce compliance with building regulations, including the erection of structures in accordance with prescribed standards.

IV. The function of planning and development of urban areas across Delhi is vested jointly with the DDA and the other municipal bodies. The municipalities have been constituted pursuant to the 74th Constitutional Amendment, whereby Part IX-A was

inserted into the Constitution of India. Consequently, the municipal bodies are primarily entrusted with the responsibility of implementing schemes assigned to them, particularly those relating to matters enumerated in the Twelfth Schedule to the Constitution.

- V. The DSIIDC is neither the local body nor the competent sanctioning authority as per the Unified Building Bye-Laws. It is the MCD which, from inception, has exercised regulatory control over construction activities, including those related to industrial properties situated within the Union Territory of Delhi.
- VI. The role of the DSIIDC is confined solely to regulating and collecting charges for the conversion of land tenure from leasehold to freehold. Consequently, it is the MCD that is statutorily empowered under the DMC Act to impose and collect conversion charges when permitting any change in land use in accordance with the MPD-2021.
- VII. The DDA by way of its notification dated 21.09.2012, has explicitly clarified that the competent authority for registration and granting permission to operate banquet halls is the concerned local body. It has been submitted, however, that in certain cases pertaining to ITES and KBI, the MCD remains amenable to duly considering the replies and representations submitted by the petitioners.

VIII. Learned counsel has placed reliance on the decisions in the cases of *M.C. Mehta v. Union of India*², *MGR Industries Assn. v. State of U.P.*³, *M. Kempanna v. State of Karnataka*⁴, *Solapur Midc Industries Assn. v. State of Maharashtra*⁵, *Saij Gram Panchayat v. State of Gujarat*⁶, *NOIDA v. CIT*⁷, *LIC v. D.J. Bahadur*⁸ and *Union of India v. Venkateshan S*⁹,

18. I have heard learned counsels for the parties and have perused the record.

19. At the outset, it be placed on record that the petitioners confined their submissions only to the extent of assailing the SCN issued by the MCD on the ground of lack of jurisdiction. Furthermore, during the course of the hearing, various factual assertions have been advanced by learned counsel for the petitioners. In response thereto, the MCD expressed its willingness to duly examine some of them, specifically those related to KBI and ITES.

20. It is pertinent to note that since the present petitions fundamentally challenge the issuance of SCN, therefore, before proceeding further, it is essential to analyse and delineate the scope of judicial intervention in matters involving show-cause notices.

21. Ordinarily, a writ petition challenging the issuance of a SCN is maintainable only under the following limited circumstances:-

² (2004) 6 SCC 588.

³ (2017) 3 SCC 494.

⁴ 1997 SCC OnLine Kar 501.

⁵ (1996) 9 SCC 621.

⁶ (1999) 2 SCC 366.

⁷ (2018) 9 SCC 351.

⁸ (1981) 1 SCC 315.

⁹ (2002) 5 SCC 285.

- a. Where the show cause notice is patently without jurisdiction.
- b. Where the notice has been issued with a premeditated or predetermined mindset.
- c. Where the notice does not provide for a fair opportunity to respond or when the notice is issued without disclosing the necessary information for an adequate defense.
- d. If the issuance of the notice is found to be an abuse of the legal process or is motivated by malafide intent.

22. In this context, reference may be made to the decisions of the Supreme Court in the cases of *Special Director v. Mohd. Ghulam Ghouse*¹⁰, *Union of India v. Kunisetty Satyanarayana*¹¹, *Siemens Ltd. v. State of Maharashtra*¹², among a catena of other decisions.

23. Furthermore, a SCN must clearly and explicitly outline the nature of the alleged violations and provide sufficient detail to enable the recipient to respond meaningfully. Similarly, in *NOVVA ADS v. Deptt. of Municipal Admn. and Water Supply*¹³, the Supreme Court emphasized that the SCN should clearly indicate reasons and grounds for the proposed action. In *Isolators & Isolators v. M.P. Madhya Kshetra Vidyut Vitran Co. Ltd.*¹⁴ the Supreme Court reiterated the established principles that a vague SCN compromises procedural fairness. Further, in *Shantanu Prakash v. SBI*¹⁵, making reference to

¹⁰ (2004) 3 SCC 440.

¹¹ (2006) 12 SCC 28.

¹² (2006) 12 SCC 33.

¹³ (2008) 8 SCC 42.

¹⁴ (2023) 8 SCC 607.

¹⁵ 2024 SCC OnLine Del 3870.



earlier precedents, the Court noted that failure to provide relevant supporting documents with an SCN deprives the noticee of a fair opportunity to respond, reducing the entire process to a mere formality.

24. Thus, it appears that learned counsels appearing for the petitioners have rightly confined their submissions exclusively to the jurisdictional competence of the MCD to issue the impugned show cause notices. Accordingly, this Court restricts its scrutiny, at this juncture, solely to the aforesaid jurisdictional issue, leaving the parties at liberty to pursue appropriate remedies contingent upon the outcome of this preliminary determination. The specific issue that presently requires consideration is whether the impugned show cause notices suffer from an inherent lack of jurisdiction, having regard to the provisions of the DIDOMA, 2010, and the rules framed thereunder.

25. To fully appreciate and examine the controversy at hand, it is necessary to briefly refer to and analyse the impugned show cause notices.

26. It has been conceded at the Bar that, except for the details pertaining to individual properties, the impugned show cause notices are substantially identical in terms of content and wording. For better understanding, one such show cause notice, which was issued to M/s Royal Lush Banquet regarding property bearing No. C-91/10, Wazirpur Industrial Area, Delhi, is being reproduced below:-

“No.:D /EE (B)-II/KPZ/2022/ 1238 Dated: 14.12.2022

INTIMATION FOR THE VIOLATION OF PROVISION OF MPD 2021 FOR NON DEPOSITING OF COMELETE REQUISITE CHARGES FOR MISUSE OF INDUSTRIAL PREMISES TO COMMERCIAL

Signature Not Verified
Signed By:AMIT KUMAR
SHARMA
Signing Date:05.07.2025
17:52:16



Signature Not Verified
Signed
By:PURUSHAINDRA
KUMAR RAURAV





WHEREAS, Clause 7.8 of Master plan of Delhi-2021 contains provision for conversion from Industrial to commercial use on units/plots within the existing Development Controls Norms subject to payment of Conversion charges and parking charges as decided by Govt. Time to time.

WHEREAS, it has been brought to my notice that the Premises/Property No. C.91/10, Wazirpur Industrial Area, Delhi Is being used at the instance of the Owner/ Occupier for commercial purposes under the name and style of M/s Royal Lush in violation of clause 7.8 of MPD-2021 and DDA Notification No.3233E dated 03/07/2018 permissible/sanctioned use of the said property. Further, in the light of Circular No. Addl. Comm.(B)/HQ/MCD/2022/D-15 dated 05.07.2022, the property was inspected and re-measured. During scrutiny of available record, it reveals that the owner/occupier has not deposited complete conversion charge/parking charge etc. as well as affidavits and documents that confirm the property is being used in fulfillment of compliance of standard operating procedure (SOP) vide No. Addl. Comr (Engg.)/MCD/2022/CE(B)HQ/124 dated 27.09.2022 for permission of Banquet Halls. Further, the premises that found under misuse from Industrial to commercial use, the balance amount of conversion charge/parking charge/additional FAR etc. is required to be deposited.

Now, therefore, you are hereby requested to deposit balance due charges 1.6. conversion charge/parking charge/additional FAR etc or submit complete record of deposition of the requisite Registration Charges, Conversion & Onetime Parking Charges and additional FAR Charges (in case of Basement), if any, along with a written reply mentioning in compliance of standard operating procedure (SOP) vide No. Addl. Comr. (Engg.)/MCD/2022/CE(B)HQ/124 dated 27.09.2022 for permission of Banquet Halls.

This letter is being issued to provide final opportunity to the owner/occupier to submit his contention in front of department or deposit balance amount along with reply as mentioned above within 03 days after receiving of this letter, failing which, the action w/s 345-Ar/w section 347 of the DMC Act will be initiated/taken against the said premises.

ASSISTANT ENGINEER (B)-II
KESHAV PURAM ZONE"

27. Thus, it is evident that the impugned SCN allege the following violations:-

- I. The premises in question, which are allotted for industrial purposes, are being utilized for commercial purposes.
- II. The owner or occupier has failed to deposit the requisite conversion charges, parking charges, and other applicable dues.
- III. The affidavit and requisite documents, in compliance with the Standard Operating Procedure dated 27.09.2022, have not been duly furnished. Furthermore, the entire amount payable towards conversion charges, parking charges, and charges for additional Floor Area Ratio (FAR), particularly in relation to basement areas, has not been deposited.
- IV. The aforementioned violations have been alleged on the basis of Clause 7.8 of the MPD 2021, the notification of the DDA dated 03.07.2018, the Circular dated 05.07.2022, and the Standard Operating Procedure dated 27.09.2022.

28. In view of these assertions, the petitioners were directed to submit their reply, failing which, action under Section 345A read with Section 347 of the DMC Act was proposed to be initiated.

29. It be noted that the genesis of conversion charges can be traced back to the MPD 2021, which is conceived as a blueprint for the orderly, sustainable, and inclusive development of Delhi. It aims to transform Delhi, thereby, ensuring a high quality of life for its residents through improved infrastructure, better civic amenities, and efficient land use. At its core, the Plan promotes rational urban growth, emphasizing the need for strategic interventions in housing, transportation, environment, and social infrastructure.

30. A significant objective of MPD 2021 is to facilitate sustainable urban development by curbing unplanned expansion and promoting the optimal use of land and resources. It proposes mixed land use to reduce travel distances and foster economic activity while maintaining residential integrity. Infrastructure development, including water supply, sewage, electricity, and waste management, forms a crucial pillar of the plan, ensuring that Delhi's urban framework can cope with its growing population.

31. Equally important are the provisions for strengthening social infrastructure, such as education, healthcare, and community facilities, along with improved transportation systems integrating land use with mobility solutions. The Plan supports a shift towards environmentally sustainable practices through the protection of ecological assets like forests, rivers, and wastelands, and the promotion of green-blue infrastructure. Cultural heritage preservation and urban renewal are also addressed, with an emphasis on safeguarding Delhi's rich historical fabric and encouraging vibrant public spaces.

32. Pertinently, Clause 7.8 therein prescribes for the industry use zone guidelines. The said Clause *inter alia* provides for sub-division of industrial use zone into use premises and subsequent approval of layout plans for industrial estates subject to prescribed norms and regulations. As per the Notes appended in the said Clause, Note (v) particularly states that the banquet halls shall be permissible in industrial premises, subject to payment of conversion charges prescribed by the Government from time to time. Furthermore, Note (vi) states that industrial units/plots shall be eligible for conversion to commercial use within the existing development control norms,



subject to payment of conversion charges computed on the current market value of a commercial area and the cost of parking as decided by the Government from time to time. Moreover, Note (vii) also permits the conversion of industrial plots to hospitals/tertiary health centres, subject to payment of conversion charges as prescribed by the Government. The relevant extracts of the aforementioned Clauses read as under:-

“7.8 INDUSTRY USE ZONE – GUIDELINES

The subdivision of industrial use zone into use premises and subsequent approval of layout plans for industrial estates shall be governed by the following norms :

Notes :

v. Banquet hall shall be permissible in Industrial premises subject to specifications / regulations as may be prescribed, along with conversion charges as prescribed by the Government from time to time.

vi. Industrial units / plots abutting roads of 24m ROW and above shall be eligible for conversion to commercial use within the existing development control norms, subject to payment of conversion charges computed on current market value of commercial area and cost of parking as decided by the Government from time to time. The activities permissible in Community Centre will be permitted in such plots. In addition, multilevel parking shall be permissible activity. However, this shall not be permitted on non-conforming / regularized industrial cluster. The above provision shall not affect the Supreme Court orders in any way.

vii. Industrial plots abutting roads of 24m ROW and above shall be eligible for conversion to {Hospital / Tertiary Health Care Centre (up to 100 beds) within the existing development control norms, subject to the conditions (a) the number of beds to be accommodated on a plot shall be worked out @ 100 sqm 80 sqm of gross floor area per bed and (b) payment of conversion charges as prescribed by the government from time to time. The activities permissible in Hospital / Tertiary Health Care Centre (Table 13.20) shall be permitted in such plots. However, this shall not be permitted on non-conforming/regularized industrial cluster. The above provision shall not affect the Supreme Court orders in any manner.”

33. Clause 15 of the MPD 2021 talks about the mixed use regulations, whereby, it envisages a policy that acknowledges the need for permitting use of land for purposes other than originally envisaged and lays down the conditions under which this may be applied in different situations. It delineates the general procedure to be followed for implementation of the said policy; and mitigating measures to be taken to counter the effect of such non-intended use in such area, are also described. Clause 15.4 therein talks about the general terms and conditions governing mixed use, as per the other terms and conditions mentioned therein. Point (vii) provides that issues related to mixed-use streets, for which conversion charges have already been levied by local bodies, need to be addressed by the concerned local body. Clause 17 talks about the Development Code, intended to promote the quality of built environment by organising the most appropriate development of land in accordance with the development policies and land use proposals contained in the Plan. Going ahead, clause 2(10) states that conversion charges / other levies as prescribed by the Government from time to time shall be payable wherever land use conversion is enabled at the premise level by the Master Plan / Zonal Plan, Mixed Use Regulation and other Regulations. The aforementioned Clauses of MPD 2021 read as under:-

“15.4 GENERAL TERMS AND CONDITIONS GOVERNING MIXED USE

In terms of the conditions prescribed for different categories of colonies, in para 15.3.2, and provided that the plot abuts a notified mixed use street (in the case of retail shops) or a road of prescribed minimum ROW (in the case of other mixed use activities), mixed use shall be permitted, subject to the following general terms and conditions:



Other terms and conditions

- i) No encroachment shall be permitted on the streets or public land.*
- ii) Development control norms as applicable for the particular residential use will continue to be applicable, even if the plot / dwelling unit is put to mixed use.*
- iii) If the notified street is a Master Plan road, and if a service road is available or provided for by local bodies, then, the mixed use premises should be approached from such service road and not directly from the main carriageway.*
- iv) In plotted development, front setback should not have boundary wall, so that it can be used for additional parking.*
- v) Parking @ 2.0 ECS per 100 sqm built up area shall be provided within the premises. Residents/ traders' organizations/ private parties shall be responsible for providing for their own private parking facilities. This condition shall apply even if residential premises are used only for professional activity.*
- vi) Common parking areas would be earmarked by the concerned local bodies on notified mixed use streets taking into account the additional load on traffic and parking consequent upon notification of the street under Mixed Use Policy. If no parking space is available, land/ plot on the said street may be made available by 3[the concerned traders/ establishments, and public shared parking facilities provided before approval/ notification of the said building/ project/ street as mixed-use.]*
- vii) Issues related to mixed-use streets for which conversion charges have already been levied by local bodies needs to be addressed by the concerned local body.*

17.0 DEVELOPMENT CODE

CLAUSE 2.0 DEFINITIONS

2(10) Conversion charges / other levies as prescribed by the Government from time to time shall be payable wherever land use conversion is enabled at premise level by the Master Plan / Zonal Plan, Mixed Use Regulation and other Regulations. ”

34. Thus, a bare perusal of the MPD 2021, which was promulgated by the Ministry of Urban Development of the Government of India, would indicate that the question of the levy of conversion charges is no longer in dispute. The authority to levy conversion charges is duly

recognised under the MPD 2021, whereby the sanction for the levy of conversion charges has been linked with the premises where the conversion from one category of premises to another happens.

35. Needless to state that the MPD 2021 has the force of law in view of the decision of this Court in the case of **B.N. Magon v. South Delhi Municipal Corporation**¹⁶, wherein this Court has held that the master plan has the force of law and statutory authorities have to strictly adhere to the same. The relevant extracts of the said decision read as under:-

“36. It is pertinent to mention that the Master Plan has legal sanctity and binding effect in law. Statutory authorities are bound to strictly adhere to the Master Plan on pain of their action being invalidated. In R.K. Mittal v. State of Uttar Pradesh, (2012) 2 SCC 232, the Supreme Court has held as under : -

“68. The Master Plan and the zonal plan specify the user as residential and therefore these plots cannot be used for any other purpose. The plans have a binding effect in law. If the scheme/master plan is being nullified by arbitrary acts and in excess and derogation of the power of the Development Authority under law, the Court will intervene and would direct such authorities to take appropriate action and wherever necessary even quash the orders of the public authorities.

xxx xxx xxx

72. From the above dictum of this Court, it is clear that environmental impact, convenience of the residents and ecological impact are relevant considerations for the courts while deciding such an issue. The law imposes an obligation upon the Development Authority to strictly adhere to the plan, regulations and the provisions of the Act. Thus, it cannot ignore its fundamental duty by doing acts impermissible in law. There is not even an iota of reason stated in the affidavits filed on behalf of the Development Authority as to why the public notice had been issued without amending the relevant provisions that too without following the procedure prescribed under the law.

¹⁶ 2015 SCC OnLine Del 6819.



73. The concept of public accountability and performance of public duties in accordance with law and for the larger public good are applicable to the statutory bodies as well as to the authorities functioning therein. We find no justification, whatsoever, for the respondents to act arbitrarily in treating equals who are similarly placed as unequals. There is also no justification for the Development Authority to issue a public notice in the fashion in which it has done. A few officers of the Development Authority cannot collectively act in violation of the law and frustrate the very object and purpose of the Master Plan in force, the Regulations and provisions of the Act.”

37. Even a Full Bench of this Court in Manushi Sangathan v. Government of Delhi, 168 (2010) DLT 168 after referring to two judgments of Supreme Court in M.C. Mehta of the year 1996 and 2006 has held that the Master Plans of Delhi have the force of law.”

36. In view of the aforesaid, the contention of the petitioners that the levy of the conversion charges is without any statutory backing falls flat in view of the express provisions of MPD 2021.

37. Now, the next question which falls for consideration is whether the DSIIDC has the authority to collect conversion charges in the present case?

38. In order to effectively answer this question, it is pertinent to peruse the legislative intent behind the enactment of the DIDOMA Act, which came into force on 28.03.2011. It states that it is an Act to make special provision for securing the orderly establishment of industrial areas, industrial estates and flatted factories complexes in the NCT of Delhi, and to assist generally in the organization, including operation and maintenance thereof. The primary aim of the DIDOMA Act is to ensure the orderly growth and modernization of industrial zones, thereby promoting industrial productivity and investment.

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39. Under DIDOMA Act, DSIIDC is incorporated as a company registered under the Companies Act, 1956. Section 4 of the DIDOMA Act enumerates the functions to be performed by the Corporation and as per the said provision, it is empowered to establish, operate, maintain and manage industrial estates at places selected and notified by the Government including the existing industrial areas, industrial estates and flatted factory complexes being maintained by the MCD. It further states that all industrial estates/ areas of Delhi will stand transferred to the DSIIDC for this purpose within the prescribed time frame. Section 5 further states that DSIIDC has the power to acquire and hold such property, both movable and immovable. Section 6 further states that DSIIDC has the power to levy fees or service charges to cover its expenses on maintenance of roads, drainage, water-supply, construction, operation and maintenance of Common Effluent Treatment Plants (CETPs) and such other services and amenities as may be provided by it, including provision of street lighting, at such rates as may be prescribed by the Government, from time to time. Section 8 further talks about the creation of the industrial development, operation and maintenance fund. As per Section 8(1), the DSIIDC shall have the fund for the discharge of its functions and to the said fund, all monies received by the DSIIDC from the Government by way of grants, subventions, loans, advances or otherwise, shall be credited. As per Section 8(2), all monies received from the conversion of industrial plots and sheds from leasehold to freehold by the Industries Department of the Government, DDA constituted under the DD Act 1957 and the DSIIDC.

40. Much emphasis is placed on Section 18 of the DIDOMA Act which reads as under:-

“18 Penalty for construction or use of land and buildings contrary to terms of holding.- (1) Any person who whether at his own instance or at the instance of any other person undertakes or carries out construction of or alterations to any building in an industrial estate or industrial area or flatted factories complex contrary to the terms under which he holds such building or land under this Act shall, on conviction, be punished with fine which may extend to ten thousand rupees, and in the case of a continuing contravention, with a further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

(2) Any person who uses any land or building in an industrial estate or industrial area or flatted factories complex contrary to the terms under which he holds such land or building under this Act or in contravention of the provisions of any regulations made in this behalf shall, on conviction, be punished with fine which may extend to five thousand rupees and in case of continuing contravention with a further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.”

41. A bare perusal of the said Section would indicate that it provides for a penalty for the construction or use of land and buildings contrary to the terms of holding. As per the said Section, any person who undertakes or carries out construction of or alterations to any building in an industrial estate or industrial area or a flatted factories complex contrary to the terms under which he holds such building or land under this Act shall, on conviction, be punished with fine. Furthermore, Section 18(2) states that any person who uses any land or building in an industrial estate or industrial area or flatted factories complex contrary to the terms under which he holds such land or building under this Act or in contravention of the provisions of any regulations made in this behalf shall, on conviction, be punished with fine.

42. Considerable emphasis has been placed on this Section to assert that the DSIIDC possesses the authority to levy conversion charges. However, a plain reading of the scheme of the DIDOMA Act makes it abundantly clear that such an assertion is misplaced. It is pertinent to note that the DSIIDC though is mandated under the DIDOMA Act but it is a company incorporated under the Companies Act, 1956. Consequently, its powers are circumscribed by the four corners of the DIDOMA Act and do not extend to functions not expressly provided therein.

43. Further, the power to levy any charge under the DIDOMA Act is confined to service charges, as is evident from a plain reading of Section 6. This provision makes no reference whatsoever to the imposition of conversion charges, which are inherently distinct from service charges in both character and purpose. Additionally, Section 18 of the DIDOMA Act only prescribes penalties for misuse of premises in contravention of sanctioned use, and does not, in any manner, contemplate the regularisation of such misuse through payment of conversion charges. In laws governing the powers of municipal corporations or local bodies, there is a fine distinction between regulatory and prosecutorial powers. Whereas, regulatory powers refer to granting sanctions, approving plans, layouts, conducting sealings, demolitions etc., the prosecutorial powers refer to the initiation of criminal prosecution to penalise any violation.

44. At this juncture, reference can be made to the DIDOMA Rules 2011. Chapter V relates to unutilized surplus lands in industrial areas, and Clause 14 thereto would indicate that upon a report submitted by DSIIDC, if the Government is satisfied that any plot holder had not

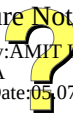


utilized the minimum permissible buildable area and the unutilized portion is capable of sub-division, then the Government, within six months from the report, can issue show cause notice to that effect and proceed for acquisition of such unutilized areas for reallocation to other industries. Sub-clause (ii) is of instructive value for the present inquiry. It provides that a portion shall not be treated as an unutilized portion if permissible commercial activity is carried out in such premises, subject to three pre-conditions – NOC from the lease management agency, approval of the local body and payment of conversion charges as notified by the Ministry of Urban Development and /or local body. The third condition i.e. *payment of conversion charges as notified by the Ministry of Urban Development, Government of India and/or the Local Body*, indicates that the conversion charges are payable as per the notification of the Ministry or the local body, and not DSIIDC. Furthermore, sub-clause (iii) thereto, would also indicate that if the premises are given on rent and permission for conversion from industrial to commercial had already been granted and conversion charges were being paid, then it would not be the case of an unutilized portion. The said extracts of the Rules read as under:-

“UNUTILIZED SURPLUS LANDS IN INDUSTRIAL AREAS

14. Acquisition of unutilized surplus lands in industrial areas and allotment to other Industries under Section 15 of the Act. Section 15(4) of the Act provides that upon the report submitted by the Corporation, the Government is satisfied that any plot holder has not utilized the minimum permissible buildable area as per building bye-laws of his plot during the maximum permissible period fixed by the Government from time to time from the date on which possession of the plot was delivered to him by the Corporation and the unutilized portion is capable of sub-division so as to make it useful for accommodating any other industry, the Government may, notwithstanding anything contained in any

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contract or in any law for the time being in force before the expiry of six months from the date of receipts of such report issue to the plot holder and all other persons interested in the plot, notices to show-cause why such unutilized portion should not be acquired for the purpose of being utilized for accommodating another industry.

The following shall not be treated as unutilized portion if:

(i) The allottee/occupier running industrial activity other than for which the plot is allotted but is in conformity to the Master Plan of Delhi in force.

(ii) The allottee/occupier running permissible commercial activity subject to obtaining 'No Objection Certificate' from the lease management agency in terms of provisions of the lease deed and approval of the Local Body and payment of conversion charges as notified by the Ministry of Urban Development, Government of India and/or the Local Body, as the case may be, from time to time. However, commercial activity shall not be allowed on the plots allotted under the relocation scheme.

(iii) Premises given on rent to any other firm/company/person for industrial activities or commercial activities where permission for conversion from Industrial activity to commercial activity has been obtained and conversion charges have been paid in terms of (ii) above. This will be applicable only in respect of those premises which have been got converted into freehold and/or where subletting permission has been obtained from the Lessor. However, commercial activity shall not be allowed on the plots allotted under the relocation scheme.

(iv) Where the land is being used in conformity to the Master Plan of Delhi in force.

(v) Where building is constructed in accordance with the building bye-laws and Master Plan of Delhi in force."

45. Thus, a perusal of the aforementioned Rule and relevant sub-clauses would also indicate that conversion charges are notified by the Government or the Local Body. The Rules do not mandate the levy of conversion charges by the DSIIDC.

46. Therefore, a holistic reading of the entire statutory framework of the DIDOMA Act reveals that no provision empowers the DSIIDC

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to levy conversion charges. On the contrary, Section 18 merely stipulates the penalty for unauthorised use of industrial premises in a manner inconsistent with their sanctioned purpose. The Section prescribes a limited fine, capped at Rs. 5,000/-, with an additional fine of Rs. 500/- per day for continued non-compliance, thereby reflecting the legislative intent to impose a deterrent, not to create a mechanism for legitimising such unauthorised usage. The framework of DIDOMA Act does not vest any power in DSIIDC to alter or permit alteration of the use of the premises upon payment of any charge or otherwise.

47. There are at least two compelling reasons why the DSIIDC cannot claim to possess the authority to impose conversion charges under the DIDOMA Act. *Firstly*, the Act is entirely silent on the concept of conversion charges, there is no definitional clause, no operative provision, nor any rule-making power delegated to prescribe such a levy. On the contrary, the only indicator in the Act is to confer such power upon the Ministry or the local body. *Secondly*, Section 18 cannot be interpreted to implicitly authorise the levy of such charges, particularly because it does not permit continued or future use of the premises for commercial activity upon payment of any fine or charge, which is the fundamental reason for the levy of conversion charges. It contemplates punishment for violation, not regularisation through monetary payment. Moreover, the very nature of a conversion charge implies a change in land use, which, under the constitutional and statutory scheme, squarely falls within the domain of planning authorities, and not a company like DSIIDC, whose role is confined to the development and maintenance of industrial areas. Thus, any act of levying such charges or permitting commercial use by the DSIIDC



would not only be *ultra vires* the DIDOMA Act but would also amount to encroachment upon the legislative domain of land use regulation vested in a different statutory body.

48. Furthermore, much emphasis has been laid upon by the petitioners on the joint meeting convened by the DDA and DSIIDC, wherein, according to them, an interim arrangement has been made between the DDA and DSIIDC for the collection of conversion charges. As per the minutes of the said meeting, till the time DSIIDC Rules were to be finalized, the DDA shall collect the conversion charges and transfer the funds; thereafter, subsequent to the formulation of Rules, DSIIDC shall perform these functions. The relevant extracts of the said case read as under:-

“6. After detailed discussions, it was decided that DDA will continue to collect conversion charges and ground rent in respect of the industrial properties/estates/areas till the rules are finalized and notified by the GNCTD and transfer the funds for the period from the date on which the Act came into effect to the date prescribed in the rules, to DSIIDC. Thereafter, these functions will vest with DSIIDC. The lease administration of the industrial properties/estates/areas would also be transferred to DSIIDC after the rules are notified under the provisions of the Act.”

49. This understanding between one statutory authority and a company borne out of a legislation cannot in any manner transcend the contours of the powers envisaged under the MPD 2021 and DIDOMA Act. When the DIDOMA Act, as well as the consequent rules, do not lay down any legislative mandate for levying conversion charges by the DSIIDC, then, by virtue of an understanding, it cannot be said that the power to levy conversion charges stood transferred to DSIIDC.

50. Even the counter affidavit filed by the DDA also states that the DIDOMA Act is not applicable in the present case, as the concerned municipal authority is empowered to collect conversion charges. The relevant extracts of the counter affidavit read as under:-

“(22) I say that the provisions of DIDOM Act 2010 are not applicable in the instant case and the concerned municipal authority is empowered to realize the conversion charges before non-industrial activity can be permitted in the industrial plots. I say that the reliance of the petitioner on the Industrial Policy for Delhi 2010-2011 is misplaced and without prejudice to the rights of the replying respondent, it is stated that the same cannot have an overriding effect on the statutory document i.e. the Master Plan 2021.

(23) I say without prejudice to the rights of the replying respondent that the industrial policy does not provide that Knowledge Based Industries/Information Technology enabled Services shall be allowed to operate in industrial plots/areas. It is stated that any non-industrial activities which does not conform the MPD-2021 cannot be permitted in the industrial plots/areas. The relaxation if any, has to be in conformity with the Master Plan 2021.”

51. In light of the above, considering the legislative mandate of DIDOMA Act and MPD 2021, it stands established that DSIIDC, deriving its authority from the DIDOMA Act, does not possess the legislative mandate or statutory sanction to levy conversion charges in the present case.

52. Now, the next question which requires consideration is whether the SCNs issued by the MCD are patently without jurisdiction. To address this question comprehensively, an examination of the relevant provisions of the DMC Act, the constitutional framework, and the pertinent provisions of the DDA Act becomes essential.

53. The DMC Act was enacted by Parliament to consolidate and amend the law governing municipal administration within the territory of Delhi. Under Section 2(10) of the DMC Act, “Delhi” has been

defined as encompassing the entire area of the Union Territory of Delhi, excluding the areas of New Delhi and Delhi Cantonment.

54. It is undisputed that, for purposes of the present controversy, the area wherein the petitioners are conducting their respective businesses fall within this statutory definition of “Delhi”. Section 41 of the DMC Act enumerates the general powers vested in the MCD, while Section 42 delineates its obligatory functions. Chapter XVI of the Act comprehensively addresses building regulations, including the definition of “building”, prohibition against construction without prior sanction, and an elaborate regulatory mechanism governing construction activity. Additionally, Chapter XXII specifically prescribes the powers, procedural aspects, offences, and penalties applicable under the Act.

55. Generally speaking, the role of a Municipal Corporation is to ensure the sanitation, provision of services, civic amenities and uphold public health standards. In the context of municipal responsibilities, the Supreme Court has elucidated the duty of local authorities to provide essential services and maintain public health standards. In ***Municipal Council, Ratlam v. Vardichan***¹⁷, the Court emphasized that municipalities are obligated to ensure proper sanitation and public health within their jurisdictions. Furthermore, in ***B.L. Wadehra (Dr) v. Union of India***¹⁸, the Supreme Court reiterated that maintaining cleanliness and providing basic amenities are fundamental obligations of municipal bodies.

¹⁷ (1980) 4 SCC 162.

¹⁸ (1996) 2 SCC 594.

56. By way of the 74th Constitutional Amendment Act, 1992, Part IX-A was inserted into the Constitution with the object of empowering municipalities as autonomous institutions, functioning independently at the grassroots democratic level, free from external administrative control. Nonetheless, the primary objective behind the establishment of municipalities remains unchanged, namely, to provide for basic civic amenities to citizens.

57. A reference may also be made in this context to the provisions of the DD Act, which has been enacted principally to ensure planned development within Delhi and to address matters incidental thereto. While the DMC Act primarily governs the municipal administration of Delhi, the DD Act specifically regulates developmental activities in alignment with established planning objectives. Both statutes, thus, operate harmoniously within their distinct legislative domains, complementing each other without encroachment or overlap.

58. Section 2(b) of the DD Act defines ‘building’ in the following terms:-

“Section 2(b) – ‘building’ includes any structure or erection, or any part thereof, intended to be utilized for residential, industrial, commercial, or any other purpose, irrespective of whether it is presently in actual use or not.”

59. A comparative analysis of the definitions of ‘building’ under the DMC Act and the DD Act yields the following position:-

<i>the definition of ‘building’ under the DMC Act</i>	<i>the definition of building under the Delhi Development Act</i>
<i>2.(3) "building" means a house, out-house, stable, latrine, urinal, shed, hut, wall (other than a</i>	<i>2.(b) “building” includes any structure or erection or part of a structure or erection which is</i>

<i>boundary wall) or any other structure, whether of masonry, bricks, wood, mud, metal or other material but does not include any portable shelter;</i>	<i>intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not;</i>
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60. Chapter III of the DD Act deals with the Master Plan and Zonal Development Plans. Section 3 of the Act provides for the constitution of an authority, namely the DDA, comprising various members and chaired by the Lieutenant Governor of the NCT of Delhi. Section 6 enumerates the objectives of the Authority, which primarily include the promotion and orderly development of Delhi according to prescribed plans. To achieve these objectives, the Authority is empowered, *inter alia*, to acquire, hold, manage, and dispose of land and other property; to undertake construction, engineering, mining, and related operations; to execute projects involving the supply of water and electricity, disposal of sewage, and provision of other essential amenities; and generally, to perform all necessary or expedient functions incidental to such planned development.

61. Section 7 of the DD Act mandates the Authority to carry out a civic survey and prepare a Master Plan, dividing Delhi into distinct zones for development purposes. This Master Plan shall indicate the specific manner in which land within each zone is proposed to be utilized, whether through development activities or otherwise, along with the stages in which such development shall proceed. The Master Plan thus serves as the fundamental framework or blueprint within which detailed zonal development plans for individual zones are required to be formulated.

62. Section 8 of the DD Act provides for the preparation of Zonal Development Plans and Section 10 prescribes the procedure to be followed in the preparation and approval of development plans, while Section 11 provides for the date on which such plans become operational. Section 9 mandates that plans must be submitted to the Central Government for approval. Additionally, Section 11A deals specifically with the procedure for modification of plans once approved.

63. Following the enactment of the DD Act, the first Master Plan for Delhi was introduced in 1962, laying down a comprehensive framework for the planned development of the city. However, by 2001, the population of Delhi had grown to approximately 138 lakhs, necessitating a revised policy framework and a comprehensive review of the Master Plan of Delhi, 1962.

64. Although, the MPD 2021 was introduced subsequently, it largely reiterated the planning principles and processes originally set out in the MPD, 1962. While recognizing the necessity of reviewing the prevailing scheme of large-scale development and land acquisition, the MPD 2021 also identified alternative strategies for developing new areas earmarked for urbanization. Concurrently, emphasis was placed upon redevelopment, reclamation of land, and improvement of infrastructure within existing urban areas.

65. Recognizing the necessity for a comprehensive re-development strategy to enhance infrastructural facilities and create additional open spaces at the local level, the Ministry of Urban Development issued guidelines in 2003 for the preparation of the MPD 2021. These guidelines, *inter alia*, laid emphasis on the importance of exploring

alternative methods of land assembly, encouraging private sector participation, and adopting flexible land-use and developmental norms to effectively address issues in congested urban areas.

66. Returning to the impugned show cause notices and the examination of the competence of the MCD to issue the same, it is necessary to consider Clause 7.8 of the MPD, 2021, already quoted above. Needless to state, the said Clause only mandates that in order to seek conversion of a premises from industrial to commercial, conversion charges as prescribed by the Government shall be liable to be paid.

67. Clause 7.8 addresses the relevant guidelines and conditions governing permissible uses within industrial zones and associated compliance requirements. Furthermore, Clause 3.3.2, deals with the guidelines for redevelopment schemes. As per the said Clause, the basic objective of redevelopment is to upgrade the area by implementing specific schemes on the basis of existing physical and socio-economic conditions in the ways prescribed under the said Clause. Clause 3.3.2(xii) further states that appropriate levies for increased FAR, and land use conversion shall be charged from the beneficiaries by the competent authority as per prevailing rules/orders.

68. Thus, a bare perusal of the MPD 2021, which has the force of law, would indicate that the conversion charges can be levied for the misuse of the properties and the said charges will be charged by the competent authority as per the prevailing rules and regulations.

69. At this juncture, reference can be made to the office order dated 07.06.2010, the relevant extracts of the said office order read as under:-

“CONVERSION CHARGES TROM INDUSTRIAL TO COMMERCIAL/BANQUETHALLS

No. 55/Addl.Com.Engg./2010

Dated : 07.06.2010

In supersession of office order No.D-16/Addl. Com.(Engg)/10, dated 15/02/2010, the following policy shall be adopted for realization of conversion charges from industrial to commercial / banquet hall.

MPD-2021 UNDER CLAUSE 7.8 OF CHAPTER-7 (INDUSTRY) READ WITH NOTIFICATION DATED 12-08-2008 PROVIDES AS UNDER

Banquet hall shall be permissible in Industrial premises subject to specifications / regulations as may be prescribed, along with conversion charges as prescribed by the Government from time to time.

Industrial units / plots abutting roads of 24 m ROW and above shall be eligible for conversion charges as prescribed by the Government from time to time, and cost of parking as decided by Government from time to time. The activities permissible in local shopping centres will be permitted in such plots. In addition, multilevel parking shall be permissible activity. However, this shall not be permitted on non-conforming / regularized industrial cluster. The above provision shall not affect the Supreme Court orders in any way".

1.Besides notified decision of One Time Payment of Use Conversion Charges, the owners/occupiers of eligible industrial units can opt following options to pay the use conversion charges.

(i) The owners / occupiers shall be allowed to pay use conversion charges on the basis of annual conversion as has been allowed in respect of residential promises being put to mixed land use subject to final decision of Government of India, to whom matter has already been referred.

(ii) The industrial units, which are liable to pay the use conversion charges in excess of Rs. 25.00 lakh (Twenty Five Lakh) shall be allowed to pay the amount in excess of Rs. 25.00 lakh (Twenty Five Lakh) in five equal installments, which shall be payable over a period of five (05) years along with simple interest @ 24% per annum on the balance amount, which shall remain payable on installments. Each installment shall be paid voluntarily in the month of MARCH of every year. The applicants can also pay balance conversion charges during



midway along with interest due at that point of time if they may intend to do so.

2. The Use Conversion Charges shall be effective from the year 2007-2008. The option of payment of one time conversion charges in installments shall be applicable from 1st April 2010. The industrial unit will have to pay the due annual installments for the year 2007-08, 2008-09 and 2009-10 as applicable before opting for the one time conversion charges w.e.f. 2010-2011.

3. The amount deposited by the owner of an industrial unit opting for payment of one time conversion charges in installments shall be forfeited if the unit reverts back to annual conversion charge mode.

4. The eligible industrial unit will pay the first installment of one time conversion charge along with an affidavit that the intended conversion is final and inescapable.

5. The Annual Conversion shall not be allowed to be adjusted in One Time Use Conversion, if applicant opts to switch over at later date. The applicant shall have to pay entire One Time Use Conversion at the time of switching over.

6. The prevailing rates shall remain in force in respect of subsequent years also unless specifically revised and notified by the Central Government. The Use conversion charges for the year 2009-10 are yet to be notified. The owners/ occupiers which started the commercial activity / banquet hall during the year 2009-10 shall be liable to pay balance of use conversion charges in case the same are revised. The owners/ occupiers shall submit an undertaking to this effect.

NOTE :

- The parameters for operation of Banquet Hall in Industrial area are yet to be notified. Therefore, an separate affidavit shall be obtained from the owners/occupiers of such industrial units to the effect that he/she/they will abide by the conditions, which shall be notified by Government of India and no equity shall be claimed, if it is found that industrial unit does not fulfil the laid parameters and all activities relating to banquet hall shall be seized immediately. The affidavit of prescribed language is attached.

The payment on account of Use Conversion shall be received through Citizen Service Bureau (CSB), which shall be worked out /calculated on self-assessments basis. The owners / occupiers / users shall disclosed necessary details / information on the prescribed form (format enclosed) and will submit with concerned Zonal Building Department along with affidavit and receipt of payment deposited with Citizen Service Bureau (CSB).

MCD reserves its right for verification of the correctness of information provided and shortfall in the amount calculated on the basis of self-assessment."

70. At first blush, Clause 7.8 of the MPD 2021, when read in conjunction with the relevant notification, unambiguously vests the MCD with the authority to levy conversion charges for the change in user of industrial plots to commercial purposes. The said Clause categorically states that the operation of banquet halls within industrial premises shall be permissible, subject to the payment of conversion charges as may be notified by the Government from time to time. The very condition of permissibility being tethered to the payment of such charges clearly demonstrates the legislative intent to permit such use only upon compliance with fiscal obligations. It would logically follow, therefore, that the authority empowered to collect such charges, within the local municipal limits, would be none other than the municipal body, namely, the MCD.

71. In this regard, it is apposite to recall that the primary and foundational functions of the MCD, as enumerated under the DMC Act, encompass *inter alia* the regulation of building activity, enforcement of building bye-laws, imposition and collection of municipal taxes and charges, and overall supervision of land use in conformity with the notified development plans. The MCD, being the statutory municipal authority, is the institution entrusted with ensuring planned development and lawful occupancy of properties in accordance with zoning norms, land use regulations, and the applicable provisions of the MPD. The levy of conversion charges for change in user, from industrial to commercial is, therefore, not merely incidental but central to the discharge of its municipal functions. Such levies serve both regulatory and fiscal purposes: they ensure conformity with planning objectives while simultaneously enabling

revenue generation essential for local governance and civic infrastructure.

72. To appreciate the jurisdictional competence of the MCD, in this regard, it is necessary to contextualise its statutory mandate. Under the DMC Act, the MCD is entrusted with a broad spectrum of municipal functions, including but not limited to regulation of land use and construction activities, enforcement of building by-laws, and imposition and collection of various municipal taxes and charges. The MCD operates as a constitutionally recognised urban local body under Part IX-A of the Constitution of India, charged with the responsibility of ensuring orderly urban development, planning, and provision of civic amenities. The imposition of conversion charges for a change of land use—from industrial to commercial—is squarely within the functional domain of the MCD, serving both regulatory and revenue-generating objectives. It is a fiscal instrument deployed to maintain planning discipline while simultaneously enabling the financial sustainability of municipal governance.

73. In contrast, the DSIIDC is a State-owned industrial development undertaking, incorporated as a company under the Companies Act, primarily tasked with the promotion, development, and facilitation of industrial infrastructure within the NCT of Delhi. While the DSIIDC may be the custodian, lessor, or allocator of specific industrial plots—particularly in designated industrial clusters—it is not a municipal body nor is it vested with legislative authority under any statute to impose or recover municipal charges such as conversion charges. Its role is limited to infrastructure development, estate management, and implementation of the state

industrial policy. It does not possess the statutory competence to regulate land use or impose levy for change of use beyond the terms of contractual allotment. No power of regulation of building activity and use, akin to MCD, has been vested with the DSIIDC under the DIDOMA Act. The domain of DSIIDC is narrower as compared to the MCD, which is the principal municipal authority in Delhi.

74. At this juncture, reference can be made to the DDA Notification No.3233E dated 03/07/2018, which is also mentioned in the impugned SCN as reproduced above. The said notification further substantiates the legal position discussed above and indicates that the MCD was not acting beyond its jurisdiction in issuing the impugned SCNs. The relevant extracts of the said notification read as under:-

**“DELHI DEVELOPMENT AUTHORITY
(LAND DISPOSAL WING)NOTIFICATION
New Delhi, the 3rd July, 2018**

Fixation of charges for allowing permitted non-industrial activities, such as ‘Residential Use (GroupHousing)’ etc in existing industrial areas, in accordance with provisions notified under MPD-2021 andalso revision/fixation of charges of use conversion in case of ‘industrial ‘to ‘Commercial/hospital’.

S.O. 3233(E).—In exercise of powers conferred under Section 57 of the Delhi DevelopmentAct,1957 (61 of 1957), Delhi Development Authority with approval of the Central government hereby makes the following regulations for fixation of charges for allowing permitted non-industrial activities, such as ‘Residential Use (Group Housing)’ etc in existing industrial areas, in accordance with provisions notified vide No.S.O. 1215(E) dated 13th May, 2013 under MPD-2021. These rates are being published in partial modificationof Gazette Notification vide S.O. No. 2955(E) dated 23.12.2008 read with S.O. No. 544(E) dated 25.02.2009.

6. Based on the above parameters, a table containing the applicable rates in respect of DDA Industrial areas has been drawn as given hereunder.

In respect of Industrial Units/plots falling in industrial areas not listed in this table, the rates may be worked out by the concerned local body based on the prescribed parameters as stated in this notification.”

75. A bare perusal of the said notification would indicate that it pertains to fixation of charges for allowing permitted non-industrial activities, such as ‘Residential Use (Group Housing)’ etc in existing industrial areas, in accordance with provisions notified under MPD 2021 and also revision/fixation of charges of use conversion in case of ‘industrial ‘to ‘Commercial/hospital’. Clause 6 of this notification would indicate that, except for the areas enumerated in the table therein, the local body is authorised to collect conversion charges in accordance with rates prescribed by the said notification. Thus, it would clearly indicate that this notification empowers the local body to collect the conversion charges.

76. The position is further reinforced by the counter affidavit filed by the DDA, which categorically affirms that the competent municipal authority is empowered to impose and collect conversion charges. It is significant that even the DDA—being the statutory planning body under the DD Act—has acknowledged that the operational responsibility for assessment and collection of these charges lies with the concerned municipal body. This affirmation not only lends institutional endorsement to the jurisdiction of the MCD but also reflects the collaborative statutory framework envisaged under the MPD 2021 and the DMC Act.

77. Thus, when the MPD 2021 and the provisions of the DMC Act are read in a conjoint and purposive manner, it becomes abundantly clear that the issuance of show cause notices by the MCD seeking to levy conversion charges for commercial use of industrial plots is not

an action bereft of jurisdiction. On the contrary, it is an exercise of power squarely within the municipal domain, undertaken in furtherance of its statutory obligations to regulate land use and augment civic revenues. Therefore, the challenge to the jurisdiction of the MCD in issuing such notices is wholly untenable and without merit.

78. Furthermore, since in some of the writ petitions, it has been alleged that the petitioners were engaged in IT/ITES services, therefore, they are not liable to pay conversion charges, it becomes necessary to consider the said contention. Recently, this Court has already put a quietus to this contention by way of W.P.C. 9986/2021 titled as **SDMC v. Moon Steel & General Industries Ltd.** The relevant paragraphs of the said decision read as under:-

“67. It is pertinent to underscore that the terms “assembled”, “fabricated” and “processed” have been employed in a deliberately broad and expansive manner, allowing for a flexible and purposive interpretation. Accordingly, the scope of this definition cannot be restricted merely to traditional notions of manufacturing involving tangible and physical goods. Rather, it logically extends to encompass non-material inputs such as data, digital content, or intellectual capital, especially where such inputs are subjected to systematic transformation or reconstitution into new intellectual property outputs, such as software, algorithms, digital products, or proprietary databases.

68. In such cases, where raw data is ingested, structured, refined, and ultimately transformed into a new and distinct intellectual property possessing commercial utility and independent market value, the process bears the hallmark of industrial activity in its modern, knowledge-based incarnation, rendering them to peg under the definition of ‘industrial building’. Thus, industries engaged in such technologically intensive processing should also be brought within the fold of ‘industrial building’, consistent with the progressive interpretation of planning and taxation statutes in the context of a digitised economy.”

79. The MCD is directed to bear in mind the said decision before deciding on the contentions to be raised by the petitioners.

80. In view of the aforesaid, all the writ petitions, along with pending applications, are disposed of with the following directions:-

- i. The jurisdictional challenge to the impugned show cause notices stands failed.
- ii. The petitioners are directed to file their response/revised response to the impugned show cause notices within two months from the date of passing of this judgment.
- iii. Consequent thereto, the MCD shall pass a speaking order within four months, after affording due opportunity of hearing to the petitioners.
- iv. Thereafter, aggrieved party shall have the liberty to challenge the decision as per the extant rules and regulations.
- v. Since the interim orders have been in operation since 2016, therefore, in the interest of justice, they shall be in operation till the MCD passes a final order.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

JULY 04, 2025/p/aks