



\$~63

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 30th October, 2025

+ **W.P.(C) 16214/2025 & CM APPL. 66322/2025**

MALA SAHNI SETH & ANR.

.....Petitioners

Through: Mr Sandeep Sethi, Sr. Adv., Mr.
Saurabh Seth, Mr. Sukrit Seth & Ms.
Aishwarya Modi, Advs.

versus

DELHI DEVELOPMENT AUTHORITY &
ORS.

.....Respondents

Through: Mr. Rajeev Lochan Mahunta, Mr.
Sahil S Panwar, Mr. Bhanu Katyal &
Mr. Pratyush Mishra, Advs.
Ms. Anushree Narain, SSC

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 66323/2025 (for exemption)

CM APPL. 66324/2025 (for exemption)

2. Allowed, Subject to all just exceptions. The applications are disposed of.

W.P.(C) 16214/2025 & CM APPL. 66322/2025

3. The present petition raises an interesting issue falling under the Goods and Service Tax (hereinafter, 'GST') regime. The Petitioners claim ownership of Unit Nos. 601, 602 and 603, situated on the sixth floor of DLF South Court Mall, Saket District Centre, New Delhi. The same was purchased



on leasehold basis in the year 2012 and sometime in November of 2023, the Petitioners filed applications with the Delhi Development Authority (*hereinafter* 'DDA') for seeking conversion of the said Units from leasehold to freehold. The said applications were processed by the DDA and various charges were demanded including the following:

- Conversion fee
- Surcharge
- Processing fee
- Ground rent
- Interest on delayed payment
- Interest on ground rent

4. All the said amounts were paid by the Petitioners. The Petitioners then followed up with the DDA for obtaining the freehold approval and execution of the lease deed. However, on 24th June, 2024, DDA raised fresh demand to the tune of Rs.78,75,423/- under the following heads :

- Ground rent
- Interest on ground rent
- Conversion charges
- Interest on conversion charges.

5. These amounts were objected to by the Petitioners. However, finally, the Petitioners paid the said amount of Rs.51,32,500/- under protest towards the balance conversion charges, *i.e.*, Rs.17,02,400/-, Rs.16,97,700/- and Rs.17,32,400/- for the said Units being, 601, 602, 603 respectively. At this stage, there was no mention of any GST liable to be paid by the Petitioners. In effect therefore, a total amount of Rs.1,54,98,554/- was paid for conversion of



the said three Units from leasehold to freehold.

6. Suddenly, again on 14th August, 2024, the DDA again raised a demand reducing the interest amount without mentioning any GST. The Petitioners further prayed for waiver of the interest on delayed payment. This continued between the Petitioners and the DDA and the conversion to leasehold was not approved.

7. Finally, on 25th April, 2025, DDA raised demands levying GST on the previously paid conversion charges with retrospective effect amounting to Rs.30,26,264/-. The justification for the said demands was on the basis of a Standard Operating Procedure (hereinafter, 'SOP') dated 28th March, 2025 which consisted of the following note:

“Note 5: Conversion charges collected in respect of conversion of non-residential leasehold property has been considered at Par with Ground Rent as the same is collected in lieu of forgoing right to collect future rent.

XXXX

6) Sale consideration received on sale of Freehold Properties: *As per Section 7 of CGST Act, 2017 read with paragraph 5(b) of Schedule II and paragraph 5 of Schedule III, Sale consideration received on sale of freehold land does not comes under the ambit of CGST Act. However, sale consideration received on sale of freehold building which includes flats, shops, etc does not comes under the ambit of CGST Act,if consideration is received by DDA after the issuance of the Completion Certificate. However, if the consideration is received before issuance of completioncertificate, the same shall be treated as supply of service as per clause 5 (b) Schedule II of Section 7 of CGST Act, 2017 and hence the same is taxable under RCM is the service is provided to Registered Business Entity/Registered Person and it*



*will be taxable under FCM if the service is provided to
Un-registered Business Entity/Un registered Person”*

8. The impugned demands are therefore based upon Note 5 of the SOP where GST is being charged on alleged services for foregoing the future rent which would have been payable if the property was not converted from leasehold to freehold. It is these demands that are being challenged by the Petitioner.

9. Mr. Sandeep Sethi, Id. Senior Counsel has relied upon Section 7(2) of the Central Goods and Service Tax Act, 2017 (hereinafter, ‘CGST Act’) read along with Serial No. 5 of Schedule III of the CGST Act to argue that conversion of leasehold to freehold is nothing but a part of a process of sale of immovable property which would not attract GST and is exempted.

10. Mr. Sandeep Sethi, Id. Senior Counsel further relies upon the decision of the Supreme Court in ***Civil Appeal No. 4964 of 2021*** titled ‘***Estate Officer and Another v. Charanjit Kaur***’ decided on 07th September, 2021 to argue that whenever any authority converts property from leasehold to freehold, it is a part of sale of immovable property and no service is being provided.

11. On the other hand, Mr. Rajeev Lochan Mahunta, Id. Panel Counsel appearing for the DDA submits that the GST is being charged under Schedule II, Serial No. 5 (e) and by the process of conversion, the DDA is foregoing its right to collect future lease in respect of the immovable property.

12. The Court has heard Id. Counsels for both parties. The question is whether there is any supply of goods or services in the present case when the DDA converts the property from leasehold to freehold.

13. The conversion of immovable property from leasehold to freehold is governed by the scheme of conversion, published by the DDA dated July



2016. The charges for conversion of leasehold to freehold are all prescribed by the DDA and nowhere in this scheme or in the fixation of rates on 23rd June, 2023, there is any mention of the GST being charged on foregoing of future lease hold amounts. The fixation of rates has been done after the GST law has come into effect,

14 In the opinion of this Court, Section 7(2) of the CGST Act clearly exempts immovable property from the domain of supply of goods or services.

15. The contest is between Schedule II and Schedule III of the CGST Act and whether any foregoing of future rentals would make the Petitioners liable to GST under Serial No. 5(e) of Schedule II of the CGST Act or not.

16. *Prime facie*, in the opinion of this Court, whenever any property is purchased initially, as per the policy, the property is given out on a leasehold basis for a particular period. The said purchaser or lessee thereafter pays conversion charges and the title in favour of the purchaser is merely affirmed by conversion of the property from leasehold to freehold. As held in the decision of the Supreme Court in ***Estate Officer and Another v. Charanjit Kaur (Supra)***, the process of conversion would merely be a part of the process of sale and conversion charges would be nothing more than consideration for sealing the sale in favour of the purchaser. Paragraph 18 of the said judgment is relevant and set out below:

“18. In the present case, the allotment of residential sites on lease hold basis for 99 years is not in issue. It has not come on record as to whether such sites were allotted in an auction or by inviting applications. Even if the site had been allotted after inviting applications, the fact remains that the respondents claim conversion of such lease hold sites to free hold sites on payment of the charges which are fixed by the Administration. Such conversion was sought in view of the



*fact that as against the limited right in the lease property for 99 years, the Administration has decided to grant freehold rights on satisfaction of certain conditions mentioned in the 1996 Rules. The fact is that the respondents had paid the premium amount as fixed under the 1973 Rules. Now, the claim is for purchase of remaining rights of the Central Government to convert the site into freehold. The Central Government continues to be owner of the land until the entire consideration money together with interest or any other amount is paid to the Central Government on account of transfer of any site or building or both as provided in Section 3 of the Act. Therefore, the owner i.e., the Central Government, cannot be said to be a trader or a service provider. The appellant is not charging any fee for conversion of leasehold property into freehold property except the amount in accordance with the 1996 Rules, which is part of the sale consideration. **It is thus a case of sale of immovable property on the terms as were fixed in the 1996 Rules. The amount so fixed under the Rules would form part of the sale consideration and not a fee or charge levied for providing any kind of service.***

17. *Prime facie*, therefore, it clearly appears that conversion is nothing but a part of the process of sale of the immovable property by the DDA to purchasers and GST would not be liable to be charged on such conversion in terms of Section 7(2) of the CGST Act itself.

18. However, Id. Counsel for the DDA wishes to seek instructions in this matter. Let the Id. Counsel obtain instructions and make submissions on the next date of hearing.

19. It is, however, made clear that no coercive steps shall be taken against the Petitioner to recover any amounts which are mentioned in the impugned demands till the next date of hearing.

20. Issue Notice. Mr. Rajeev Lochan Mahunta, Id. Panel Counsel accepts



notice on behalf of Respondent No. 1. Ms. Anushree Narain, ld. SSC accepts notice on behalf of Respondent Nos. 2 to 4.

21. The GST Department shall also seek instructions in this regard.

22. A short affidavit shall be filed by the DDA and GST Department by the next date of hearing.

23. List on 05th December, 2025 in *Supplementary List*.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

OCTOBER 30, 2025/pd/ck