IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.5548 OF 2015

Bajaj Auto Ltd.,
Akurdi, Pune-411 035 Petitioner

Versus

State Government of Maharashtra
and others Respondents

Mr.V.J.Dixit, Senior Counsel i/by Mr.A.G.Talhar, advocate for the petitioner.
Mr.S.G.Nandedkar, A.G.P. for Respondents No.1 and 2.
Mr.A.R.Salve, advocate for Respondents No.3 to 5.
Mr.V.D.Sapkal, advocate for Respondent No.6.

WITH
CIVIL APPLICATION NO.7069 OF 2015
IN
WRIT PETITION NO.5548 OF 2015

Gram Panchayat Jogeshwari,
Village Jogeshwari, Taluka Gangapur,
District Aurangabad Applicant

Versus

1 Bajaj Auto Ltd.,
Akurdi, Pune-411 035 & others Respondents

Mr.V.D.Sapkal, advocate for the applicant.
Mr.V.J.Dixit, Senior Counsel i/by Mr.A.G.Talhar, advocate for Respondent No.1.
Mr.S.G.Nandedkar, A.G.P. for Respondents No.2 and 3.
Mr.A.R.Salve, advocate for Respondents No.4 to 6.

CORAM : R.M.BORDE &
P.R.BORA, JJ.
DATE : 28th July, 2015

PER COURT:

1 Learned Senior Counsel appearing for the petitioner, referring to the judgment of the Division Bench of this Court in **PIL No.60 of 2001**, in the matter of Dr.Vijay Dinkarrao Shinde & others Vs. State of Maharashtra & others, decided on 10th November, 2014, contends that clauses 2 to 4 and 5(a) of the Amendment Rules, 1999, have been struck off being violative of Article 14 of the Constitution of India. It is further pointed out that Rule 7(1) of the Rules of 1960, prior to its amendment, reads thus:

> 7(1) Every Panchayat which decides to levy a tax on building and lands shall subject to the provisions of sub-rule (2) and after following the procedure prescribed in rules 3 and 4 levy it at such rate based either on the capital value or on the annual letting value of the lands and building, as may be decided by it, but not below the minimum and not exceeding the maximum rate, specified in the Schedule annexed to this Part.

2 It is further contended that the State Government has undertaken review of the rates of taxes admissible for recovery by the Village Panchayats in view of the decision taken on 06.04.2015. It is recorded in the Government Resolution, issued on 06.04.2015, that a Study Group has been formed and until decision on recommendations by the said Study Group, separate instructions would be issued in respect of rates of taxes which can be recovered by the Village Panchayats.

3 Learned Counsel for the petitioner is not in a position to point out as to what orders are issued by the State Government in respect of recovery of taxes by the Village Panchayats during pendency of decision and scrutiny of the matter by the Study Group.

4 Learned A.G.P., appearing for the State, seeks time to furnish information as regards interim policy of the State Government.

5 Learned Counsel appearing for Respondent-Village Panchayat (Applicant in C.A. No.7069 of 2015) has pointed out that as per the calculations drawn by the Village Panchayat, the petitioner is liable to pay taxes at the rate of Rs.4/- per square feet for constructed area and 80 paise per square feet for open land and the amount recoverable towards tax comes to Rs.2,43,09,596.00/-. Learned Counsel for Respondent-Village Panchayat further states that the petitioner shall be directed to deposit at least 50% of the amount, as claimed by the Village Panchayat.

6 In the facts of this case, since the State Government has formed a Study Group for taking review of the matter in respect of taxes to be recovered by the Village Panchayat, in our view, issuance of such directions at this stage, as prayed for by the Respondent-Village Panchayat (Applicant in C.A. No.7069 of 2015), would not meet ends of justice. It is also a matter of record that the petitioner, on its own, has offered to pay the tax at the rate of Rs.1 (Rs.One) per square feet for the constructed area and 20 (twenty) paise per square feet for the open land. The total amount offered by the petitioner vide their communication dated 07.05.2015, comes to Rs.67,43,000/- (Rs.Sixty Seven lacs Forty Three Thousand).

7 Considering the offer made by the petitioner, we deem it appropriate to permit Respondent-Village Panchayat (Applicant in Civil Application No.7069 of 2015) to withdraw a sum of Rs.67,43,000/- (Rs.Sixty Seven lacs Forty Three Thousand), out of the amount deposited by the petitioner in this Court, unconditionally. The balance of amount shall be invested in short term Fixed Deposit for the period of six months.

8 Civil Application stands disposed of.

9 The petition would be taken up for consideration on 22.09.2015.

Interim relief granted earlier shall continue.

P.R.BORA
JUDGE

R.M.BORDE
JUDGE

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