IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11685 OF 2016

M/s. Suyash Impex Pvt. Ltd., … Petitioner.

V/s.

The State of Maharashtra & Ors. … Respondents.

Mr. Surel Shah a/w. Mr. Harshwardhan Salgaokar, Advocate for the Petitioner.
Mr. Sandeep Marne, Advocate for Respondent Nos. 2 & 3.

CORAM : M. S. SANKLECHA AND
MRS.SWAPNA JOSHI,JJ.

DATE : 20th OCTOBER, 2016

P.C. :

1 At the request of the learned counsel appearing on behalf of both the parties, this petition is being disposed of by this order finally at the stage of admission.

2 This petition challenges the final notice dated 06th August, 2016 issued by the Navi Mumbai Municipal Corporation (Corporation). The said impugned notice demands Rs.14.84 lakhs under the Maharashtra Municipal Corporation Act, 1949 from the Petitioners, as outstanding property taxes of the Corporation. The impugned notice threatens to execute

warrant of attachment if the arrears are not paid within two days from the date of receipt of the impugned notice.

3 It is the grievance the Petitioners that no dues are payable by it to the Respondent-Corporation. In support thereof, our attention is invited to the "No Dues Certificate" dated 12th August, 2013 issued by the Respondent- Corporation in respect of the subject property.

4 Mr. Marne, learned counsel appearing on behalf of the Corporation invites our attention to the communication dated 9th February, 2016 addressed by the Corporation to the Petitioners, interalia, pointing out that the arrears which are payable by the Petitioners is on account of penalty charges at the rate of 2% against the delayed payment of the property taxes during the period 2003 to 2013. It is pointed out on behalf of the Corporation that a representation was made by the Industry as well as by the Corporation to the State Government to grant relief in respect of levying of penalty on delayed payment of the property taxes in-respect of the properties in the MIDC area. Therefore, it is submitted that the Corporation had stopped issuing bills for penalty in anticipation of a favourable response from the State Government. This also explains, according to Mr. Marne, the issuance of no dues certificate. However, the State Government has not granted the request for relief from the property taxes.

In these circumstances, the arrears have been now demanded by the Corporation, as they were kept in abeyance, awaiting favourable response from the State Government. We note that the communication dated 9th February, 2016 being relied upon by the Corporation was not preceded by taking into account the objection, if any, the Petitioner may have. This is particularly so, as the Corporation was admittedly not raising bills in respect of penalty and had also issued a "No Due Certificate" to the Petitioners.

5 At this, Mr. Marne, very fairly states that if the Petitioner files a representation in respect of the communication dated 9th February, 2016 to the Deputy Commissioner (Property Taxes) within a period of two weeks from today, the Deputy Commissioner of Property Taxes would consider and dispose of the representation within a period of four weeks from the date of filing of the representation. It is made clear that the Dy. Commissioner would dispose of the representation after granting personal hearing to the Petitioner.

6 Mr.Marne also very fairly on instructions states that the Respondent Corporation will not act upon final notice dated 6th August, 2016 till representation, if any, filed by the petitioner within two weeks from today, is disposed of. It is made clear that if a representation is not filed within a period of two weeks from today, the Respondent Corporation would

be free to take action consequent to impugned notice dated 6th August, 2016.

7 The petition is disposed of with the above directions.

(MRS.SWAPNA JOSHI,J.) (M.S.SANKLECHA,J.)

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