

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1682/2016

M/s. Diamant Infrastructure Ltd., Dharampeth, Nagpur through its Managing Director

...Versus...

The State of Maharashtra, through Principal Secretary, Urban Development Department, Mantralaya, Mumbai – 32 and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri F.T. Mirza, Advocate for petitioner
Shri S.M. Ukey, AGP for respondent no.1
Shri Dahat, Adv. h/f Shri J.B. Kasat, Adv. for respondent nos.2 to 4

CORAM : SMT. VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.

DATE : 17.03.2016

By this petition, the petitioner seeks a declaration that the provisions of Sub Sections 2 (e) and (8) of Section 406 of the Maharashtra Municipal Corporations Act, 1949 and Clause (f) of Sub Rule (1) of Rule 36 of the Bombay Provincial Municipal Corporations (Local Body Tax) Rules, 2010 are violative of the provisions of Article 14 of the Constitution of India.

It is stated on behalf of the petitioner that an appeal under the provisions of Section 406 of the Act is not entertained unless the petitioner deposits the entire tax amount before the appellate authority. It is stated that the provisions of Section 406 of the Act and Rule 36 of the Rules of 2010 are arbitrary and violative of the provisions of Article 14 of the Constitution of India.

The issue involved in this case could be answered against the petitioner, in view of the law laid down by the Constitution Bench judgment of the Hon'ble Supreme Court, reported in (1975) 2 SCC 175 in the case of *The Anant Mills Co. Ltd....Versus...State of Gujarat and others*.

Hence, for the reasons recorded in the said judgment, we refuse to grant the prayers made by the petitioner in the instant petition. The writ petition is disposed of with no order as to costs.

At this stage, Shri Mirza, the learned Counsel for the petitioner states that the petitioner may be granted at least some time to make the deposit of the amount, as required by the provisions of Section 406 of the Act. The learned Counsel states that the amount would be deposited by the petitioner before the appellate authority on or before 11.04.2016.

The request made on behalf of the petitioner is just and reasonable. Hence, we direct the appellate authority to accept the appeal, if the required deposit is made by the petitioner on or before 11.04.2016.

Order accordingly.

JUDGE

JUDGE