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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 3689 OF 2017**

Indian Oil Corporation Ltd.

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr.Chirag Mody with Rishikesh Soni, Tejas Gokhale, Ashok Purohit I/b.
Ashok Purohit & Co. for Petitioner.

Mr.Sandeep Marne for Respondent Nos.2 to 4.

**CORAM: M. S. SANKLECHA &
S.C. GUPTE, JJ.**

DATE : 6 APRIL 2017

P.C. :

This petition under Article 226 of the Constitution of India challenges the final notice dated 16 February 2017 issued by the Assistant Commissioner of Respondent No.2 Corporation. The impugned notice demands property taxes aggregating to Rs.1.36 crores in respect of its petrol pump. It further calls upon the Petitioner to pay the aforesaid amount of Rs.1.36 crores within two days, failing which coercive proceedings are threatened.

2 The grievance of the Petitioner is that the impugned notice to the extent of the entire amount of Rs.1.36 crores, as demanded by the Corporation, is attributable entirely to the penalty and interest being imposed upon the Petitioner as the property taxes of Rs.57.93 lakhs as

demand have already been paid as arrived at between the parties. This payment of property taxes on the part of the Petitioner was on the representation of Respondent No.2 Corporation as far back as on 18 January 2016 that once payment of property taxes is made, then the request of waiving of interest and penalty will be considered sympathetically. We note that by letter dated 17 February 2017, the Petitioner had made a representation to the Commissioner of Respondent No.1 corporation pointing out penalty and interest in the present facts is not justified. The corporation by a letter dated 28 February 2017 has rejected the Petitioner's representation dated 17 February 2017 without granting any personal hearing to the Petitioner. It would meet the interests of justice if the final notice dated 16 February 2017 and order dated 28 February 2017 rejecting the representation of the Petitioner dated 17 February 2017 are set aside. The Petitioner is at liberty to file a supplemental representation challenging the imposition of penalty and interest upon the Petitioner, as indicated in the final notice dated 16 February 2017, which has been set aside. The contents of the final notice should be treated as a show cause notice and the Petitioner should file a representation thereto. The Respondent corporation will hear the Petitioner and thereafter dispose of the Petitioner's representation by a reasoned order.

3 Needless to state that till such time the Petitioner's representation is disposed of by the Assessor & Collector and for a period of two weeks from the date of the communication of the order disposing of the Petitioner's representation, the Corporation will not adopt any coercive proceedings.

4 The petition is disposed of in above terms. No order as to costs.

(S.C. GUPTE, J.)

(M. S. SANKLECHA, J.)