IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2106 OF 2018

Nahalchand Laloochand Pvt.Ltd. ...Petitioner
vs
1.The Municipal Corporation of Gr.Mumbai
2.The Assistant Assessor and Collector. ...Respondents

Mr.Rajesh Kachare I/b. Mr.Gaurav Patankar, for the Petitioner.

Ms.Sheetal Metakari, for MCGM.

CORAM : NARESH H.PATIL ACTING C.J &
G.S.KULKARNI, J.

DATED: 21th September,2018

P.C.:-

1. Heard the learned Counsel for the parties. Perused the record.

2. The petition challenges the communication dated 19 March 2018 issued by the respondent-Municipal Corporation whereby the petitioner has been informed that the objection of the petitioner vide its letter dated 12 February 2018 to the Special Notice under Section 162(2) of the Mumbai Municipal Corporation Act (for short 'the Act'), in regard to fixing of capital value of the property tax, cannot be considered, as it was not received within twenty one days of the issuance of the said Special Notice.

3. It appears that the Special Notice under Section 162(2) of the Act was issued to the petitioner whereby in exercise of power under Section 154(1A) and 154(1B) of the Act, the capital value of the premises in question was fixed at Rs.26,30,24,400/- for the purpose of levy of property tax. This notice was received by the petitioner on 5 February 2018. The petitioner by its letter dated 12 February 2018 objected to the fixing of the capital value, and the rate as prescribed in the said special notice and requested for modifying the capital value as prescribed, on the contentions as urged in the said representation.

3. We asked the learned Counsel for the respondent-Corporation to confirm whether the said letter dated 12 February 2018 of the petitioner was received by the Corporation on 12 February 2018. On instructions, the learned Counsel for the Corporation states that the said letter/objection of the petitioner was received.

4. A perusal of the impugned communication dated 19 March 2018 clearly indicates that the concerned officer of the Corporation has refused to consider the said representation of the petitioner on the ground that it was not received within twenty one days of issuance of the special notice dated 5 February 2018 issued under Section 162(2) of the Act. Ex facie it appears to be erroneous, for the corporation to inform the petitioner by the impugned communication, that the reply/representation

could not be considered as it was received beyond twenty one days, when admittedly it was received by the municipal corporation on 12 February 2018 which was within seven days of issuance of the special notice. Resultantly, the reasons as contained in the impugned communication to reject the petitioner's reply/objection cannot be sustained. The concerned officer of the Municipal Corporation was under an obligation to consider the objection as raised by the petitioner in its letter dated 12 February 2018. We accordingly allow the petition by the following order:-

ORDER

(I) The impugned communication dated 19 March 2018 is quashed and set aside. The concerned officer of the Municipal Corporation shall take into consideration the representation/objection of the petitioner dated 12 February 2018 and after considering the same, take appropriate decision in accordance with law.

(II) All contentions of the parties on merits of the matter are expressly kept open.

(III) The petition stands disposed of in the above terms. No costs.

(G.S.KULKARNI, J) **(ACTING CHIEF JUSTICE)**