

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3319 OF 2017

Tower Vision India Pvt.Ltd.

... Petitioner

Versus

The State of Maharashtra and anr.

... Respondents

Mr. A.L. Bhise h/f Mr. H.S. Venegaonkar for the petitioner.

Mr. A.I.I. Patel, Addl G.P. for the State.

**CORAM : B.P. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.**
DATE : SEPTEMBER 27, 2019

P.C.:

It is not in dispute that after orders of this court and Hon'ble Apex Court, the challenge to levy of property tax on cellular telecommunication sites does not survive.

2. Only contention urged now is recovery of excess amount of Rs.1,17,377 alleged on account of penalty.

3. We have perused the papers with the assistance of the learned counsel for the petitioner and learned AGP who appears for respondent no. 1. It is not clear whether service on respondent nos.2 and 3 is complete or not. However, there is no appearance for them.

4. Petitioner has stated that even the disputed amount of

penalty has already been deposited by the petitioner and as such the Municipal Council has got nothing to loose in the matter. According to him high handed recovery of excess amount is pointed out to the Municipal Council by representation but that representation has still not been decided.

5. We find that in the bill No. 33012 dated 1/4/2015, total amount of Rs.5,76,252/- was claimed from the petitioner. This bill does not contain any penalty. The receipt issued on 29/3/2016 shows that the petitioner has paid total amount of Rs.5,42,260/-. The receipt mentions that the amount then payable was Rs.6,59,637/-. This difference however, has not been disclosed to be on account of any penalty.

6. Bill No.7317 dated 6/5/2016 shows current demand of Rs.17,496/- while in arrears column amount of Rs.1,17,377/- is shown as outstanding under the head penalty.

7. Petitioner has submitted that even this amount has been paid by him to the Municipal Council.

8. In this situation, we are not inclined to keep the petition pending. We direct the petitioner to appear before the Chief Officer of Municipal Council on 18/11/2019 and to clarify all facts to him. After verification of facts, respondents shall consider the grievance and pass suitable orders within next one month.

9. If the amount of penalty is found to be a wrongful recovery or any amount is found recovered in excess, petitioner shall be given credit therefor, in the next demand.

10. With these directions, we dispose of the writ petition.

(SANDEEP K. SHINDE, J.)

(B.P. DHARMADHIKARI, J.)