IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2540 OF 2021

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Ankush M.Chhabria ...Petitioner
v/s.
Navi Mumbai Municipal Corporation & Ors. ...Respondents

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Mr.M.M.Vashi, Sr.Advocate with Adv.Manisha Desai i/b M.P.Vashi & Associates for the Petitioner.
Mr.R.M.Shinde, AGP for the State.
Mr.Sandeep Marne for Respondent No.1.

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CORAM : A.A. SAYED &
V. G. BISHT, JJ.
DATED : 9 JULY 2021
(THROUGH V.C.)

P.C.:

The Petition is filed challenging the order dated 24 June 2021 passed by the Asst.Commissioner/Ward Officer, F-Ward, Ghansoli, Navi Mumbai Municipal Corporation, demanding an amount of Rs.40,65,909/- towards arrears of property tax, penalty and interest. According to the Petitioner, the principal amount is Rs.13,50,735/- and the balance amount is towards penalty and interest.

2. Learned Senior Counsel for the Petitioner has invited out attention to the order dated 29 July 2016 passed by the Division Bench of this Court in Writ Petition No.8506 of 2016 (M/s.Super Lable Manufacturing Co. v/s.

The State of Maharashtra & Ors.). The Division Bench, interalia, turned down the challenge to Rule 41 of the Taxation Rule Vide Chapter-VIII appended to the Schedule-D to the Maharashtra Municipal Corporation Act (imposing penalty where cess amount is not paid within stipulated period) as well as the constitutional validity of Rule 41 of the Maharashtra Municipal Corporation (Cess on Entry of Goods) Rules 1996 (imposing penalty and interest on cess, where such cess is not paid within stipulated period). Learned Senior Counsel has also pointed out the order dated 6 February 2017 passed by the Supreme Court in SLP Nos.2552-2557 of 2017, wherein the Supreme Court has directed that no coercive steps shall be taken against the members of the Petitioner-Association (Small Scale Entrepreneurs Association-TTC), for recovery of interest or penalty under Rule 41 of Schedule-D of the Maharashtra Municipal Corporation Act, 1949 or Rule 41 of Maharashtra Municipal Corporation (Cess on Entry of Goods) Rules,1996.

3. In view of the above, we accede to the request of the learned Senior Counsel for the Petitioner to allow the Petitioner to pay the principal amount in four monthly installments and accordingly direct the Petitioner to pay the principal amount within four months from today in four equal monthly installments. The first of such installment shall be paid within 15

days from today. In terms of the order dated 6 February 2017 of the Supreme Court, we direct that no coercive steps shall be taken against the Petitioner until disposal of SLPs before the Supreme Court. We make it clear that in the event of any default by the Petitioner, the protection granted by this order shall not be available to the Petitioner. We further clarify that in the event, the final order of the Supreme Court is not favourable, the Respondent No.1-Navi Mumbai Municipal Corporation shall be entitled to recover the interest and penalty in accordance with law.

4. The Petition is disposed of in the aforesaid terms.

(V. G. BISHT,J.) **(A.A.SAYED, J.)**