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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 583 OF 2021

Amardeep Udyog

... Petitioner

Versus

State of Maharashtra and Ors.

... Respondents

Ms. Nikita Badheka i/by Parth Badheka for the Petitioner.

Mr. Jyoti Chavan, AGP for the State.

Mrs. Vandana Mahadik for the MCGM-Respondent No.4.

**CORAM: S. V. GANGAPURWALA AND
VINAY JOSHI, JJ.**

DATE : 14th MARCH, 2022

P.C. :-

. The petitioner is assailing the assessment order for the period 2010-11 dated 6th May, 2019.

2. Learned Advocate for the petitioner submits that the order impugned is passed without taking into account all the documents placed on record. The petitioner had filed application under Right to Information Act about the filing of audited accounts. The reply was received that the audited accounts are filed. The Assessing Officer in the impugned order does not refer to the same on the contrary observed that the books of accounts are not produced and that the delay is purposefully made in producing the books of accounts and the relevant documents. All the documents are part of the record. The Assessing

Officer in a casual manner ignoring the documents placed on record has passed the order. This Court may exercise writ jurisdiction and may not relegate the petitioner to avail the alternate remedy. The learned Advocate for the respondents submits that under the statute the petitioner is liable to avail the same, the petitioner is also not required to deposit 100% amount.

3. In fact, the petitioner has already deposited Rs.5 lakhs. The First Appellate Authority is the fact finding authority. All the contentions raised by the petitioner can be considered by the Appellate Authority while deciding the Appeal. As substantive remedy is available to the petitioner, it would be appropriate for the petitioner to avail the remedy of appeal where all the factual aspects can be considered including the grievance of the petitioner that the documents available on record have not been considered by the Assessing Officer. The Appellate Authority, needless to state shall consider all the contentions.

4. Writ Petition is disposed off with liberty to the petitioner to avail alternate remedy. All contentions kept open. No costs.

[VINAY JOSHI, J.]

[S. V. GANGAPURWALA, J.]