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

WRIT PETITION NO.331 OF 2020

National Textile Corporation Ltd. ….. Petitioner

Vs.

The State of Maharashtra and Ors. ….. Respondents

Mr.Prathamesh Seth i/b Mr.Joseph Fernandes for the Petitioner
Ms.Jyoti Chavan, A.G.P. for the Respondent no.1

CORAM: K.R. SHRIRAM, J &
FIRDOSH P. POONIWALLA, J.

DATED : 13TH JULY 2023

P.C.

1. Writ Petition No.7274 of 2018 (Appellate Side) is renumbered on the Original Side as Writ Petition No.331 of 2020 as per order dated 24th September 2019. Since the record and proceedings were not available, Mr.Prathamesh Seth provided copy of the petition as well as orders passed therein for the benefit of the court.

2. Petitioner is impugning the orders dated 3rd June 2010, 25th November 2011 and 24th November 2017 passed by Respondent no.1 - State of Maharashtra. Petitioner received communications dated 17th July 2007 and 30th July 2007 from Respondent no.3 that a sum of Rs.34.77

crores has become due and payable to the Collector as unearned income for sale of land by Petitioner. Subsequently, an order dated 24th November 2017 came to be passed by the Revenue Minister of the State of Maharashtra rejecting Petitioner's objection to claim unearned income from Petitioner. It is this order which is also impugned in this petition. For ready reference the chronological dates and events read as under:

No.	Date	FACTS/EVENTS
1.	27.10.2004	Municipal Corporation of Greater Mumbai vide its letter dated 27th October 2004, approved the Integrated Development Scheme only of seven mills. The MMC while granting permission earmarked land of two mills for surrender to the MHADA herein and to itself MMC. The land of two mills were to be used by the MHADA and MMC towards open spaces and housing for poor as per the provisions contemplated by Regulation 58 of the Development Control Regulations ("DCR").
2.	17.07.2007 & 30.07.2007	NTC is informed that the payment of Rs.34.77 Crores become due and payable to the Collector, Office of the collector and District Magistrate, Mumbai City as unearned income for sale of land. **(Notice challenged under Writ Petition No. 7274 of 2018)**
3.	31.10.2007	Deed of Assignment dated 31 October, 2007 was entered into between the NTC and MHADA herein in respect of the land bearing City Survey No.749 of Mazgaon Division and C.T.S. No.8/716 of Mazgaon Division, both admeasuring 33,727.68 sq. mtrs. The said Deed of Assignment was executed in view of the provisions of Regulation 58(1)(b) of the Development Control Regulations.
4.	07.11.2007	The Office of Collector and District Magistrate, Mumbai city was intimated about the said Deed of Assignment. Since the said Deed of Assignment was an unregistered one, name of the NTC came to be shown in the revenue record though physical possession of the land was given to the MHADA where MHADA.
5.	24.04.2009, 25.05.2009 & 24.09.2009	The NTC vide its letters dated 24.4.2009, 25.5.2009 and 24.9.2009 requested the Principal Secretary, Revenue Department to look into the demand of payment of unearned income in respect of surrender land to the MHADA and issue further directions to the Collector, office of Collector and District Magistrate, Mumbai city herein to issue N.O.C. for registration of the Conveyance Deed and also direct the MMC to release the T.D.R. in favor of the NTC.
6.	03.06.2010	The State Government vide its letter dated 03.06.2010 informing the NTC that its **request not to recover the unearned income stands rejected.**

7.	10.06.2010	After receiving the aforesaid letter dated 3.6.2010, the NTC issued a letter dated 10 June, 2010 to the State Government informing that the NTC vide its several letters had informed that the NTC is not liable to pay the unearned income since its Class-I occupant and as such the rule of unearned income is not applicable to the Class-I occupant and that there was no such condition in the lease deed. The NTC therefore requested the State Government to inform the NTC the grounds of rejection.
8.	24.09.2010 & 23.12.2010	On 24.9.2010 issued a letter to the Additional Secretary of Revenue Department informing that the NTC had obtained legal opinion from Justice V.G. Palshikar (Retired High Court Judge) and who had opined that the NTC being Class-I occupant, it did not attract Rule No.84 of Maharashtra Land Revenue Manual and equally there was no such condition in the lease deed for payment of any unearned income at the time of transfer of the lease. Similarly, it was also pointed out that the State Government requested the NTC to hand over 4 Acres of land of India United Mills No.6 at Dadar for construction of Dr. Babasaheb Ambedkar Memorial and now which has been subsequently handed over and memorial is being constructed without payment of any compensation to the NTC. Taking into consideration all the aforesaid aspects, it was requested to reconsider its decision and withdraw the said demand and issue directions to the Collector, Office of Collector and District Magistrate, Mumbai city for issuance of N.O.C. for registration of Conveyance Deed in favour of MHADA and further direct the MMC to release T.D.R.
9.	12.10.2017	NTC had filed appeal w/s. 29 of the Maharashtra Land Revenue Code before the State Government. However, subsequently on 12.10.2017 the NTC made an application for withdrawal of the appeal with liberty to file appropriate appeal before Konkan Commissioner.
10.	24.11.2017	The Hon'ble Revenue Minister vide its order dated 24.11.2017 rejected NTC’s application.
11.	29.11.2017	On 29.11.2017 the NTC filed an application before the the Collector, Office of Collector and District Magistrate, Mumbai city herein for renewal of lease in respect of the land admeasuring 32,438.00 sq. yards in land bearing City Survey No.749 of Mazgaon Division and in respect of land bearing City Survey No.8/716 of Mazgaon Division, admeasuring 7900 sq. yards.
12.	16-04-2018	**The NTC aggrieved by the aforesaid order, (the payment of Rs.34.77 Crores) has preferred Writ Petition No.7274 of 2018 in the Hon'ble High Court. It is the present Writ Petition.**

3. Subsequently, during the pendency of this petition, the State issued a letter dated 29th December 2018 to Petitioner and Petitioner was called for personal hearing. By the said letter, Petitioner was also directed to

make payment of Rs.9,86,22,126/- towards renewal of lease and Rs.46,43,94,310/- towards transfer charges. On 8th January 2019 Petitioner made submissions during the personal hearing. Another notice was issued on 19th January, 2019 once again calling Petitioner for a personal hearing. Petitioner was again directed to make payments mentioned earlier. Petitioner attended the personal hearing and made submissions. On 28th January 2019 hearing was given to Petitioner by the Collector and Petitioner was once again directed to file their say within 15 days. Petitioner did not make any submissions and the matter was closed for orders. On 3rd July 2019 interim order came to be passed by the Collector and Petitioner was directed to pay a sum of Rs.139,88,03,874/- for renewal of lease as lease rent and other charges.

4. This was challenged by Petitioner by filing an Appeal before the Maharashtra Rent Tribunal being Appeal No.L-388. By an order dated 14th November 2019 Maharashtra Rent Tribunal remanded the matter to the Collector for *de novo* hearing. Collector gave hearing on 29th March 2022, 20th April 2022, 31st May 2022, 15th July 2022 and 27th July 2022. Hearing is closed and Collector has sent a report to the Government of Maharashtra and Additional Chief Secretary, Revenue Department, Government of Maharashtra to give guidelines.

5. Ms.Chavan states that the report was sent on 16th October 2022 and the response from Additional Chief Secretary, Revenue Department is

awaited. Ms.Chavan states that report will be issued as soon as possible and expects it to be issued within 8 weeks. We make it clear that we will hold Additional Chief Secretary responsible because he has had almost 9 months to issue the report from the time the Collector made a request.

6. Since the subject matter of Petitioner's grievance is still being agitated before the Collector, in our view this petition will not survive. We see no reason to keep this petition alive.

7. Keeping open all the rights and contentions of Petitioner to challenge any order passed by the Collector, we hereby dispose the petition.

8. Petition disposed.

9. We clarify that we have not made any observation on the merits of the matter which the concerned authorities will consider in accordance with law.

(FIRDOSH P.POONIWALLA, J.) **(K.R. SHRIRAM, J.)**