IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9543 OF 2025

DIPSI Chemical Pvt. Ltd. ….Petitioner

Versus

Panvel Municipal Corporation ….Respondent

Mr. Rashid Khan a/w. Mr. Siddharth S. Ingle for the Petitioner.
Mr. Ashutosh A. Kumbhakoni, Senior Advocate i/b. Mr. Akshay P. Shinde for the Respondent.

CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.

DATE : 10th SEPTEMBER, 2025

P.C. :-

1. This matter was heard on 8th September, 2025 and today.

2. The learned Advocate for the Petitioner submits that the Petitioner's factory is still grappling with the computation of taxes imposed by the Respondent Corporation. According to the Petitioner, the assessment of the outstanding amount of Rs.62,29,123/- for the period from 1st October, 2016 to 31st March, 2025 is arbitrary and erroneous.

3. The learned Senior Advocate appearing for the Corporation relies upon ***M. Sector Industries Charitable Trust v/s. State of Maharashtra and Ors.***[1], ***Small Scale Entrepreneurs Associates and Ors. v/s. State of Maharashtra and Ors.***[2], ***Kharghar Co-op. Housing Societies Federation Ltd. and Anr. v/s. Municipal Commissioner, Panvel Municipal Corporation and Ors.***[3] and ***Siliguri Municipality and Ors. v/s. Amalendu Das and Ors.***[4], to contend that this Court should not entertain Writ Petitions directly questioning tax liabilities and tax assessment. He specifically points out paragraph nos.2 to 4 of the judgment of the Hon'ble Supreme Court in *Siliguri Municipality* (Supra), which read as under :

> *2. We are constrained to make the observations which follows as we do feel dismayed at the tendency on the part of some of the High Court to grant interlocutory orders for the mere asking. Normally, the High Courts should not, as a rule, in proceedings under Art. 226 of the Constitution grant any stay of recovery of tax save under very exceptional circumstances. The grant of stay in such matters, should be an exception and not a rule.*
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> *3. It is needless to stress that a levy or impost does not become bad as soon as a writ petition is instituted in order to assail the validity of the levy.*

1 2000 SCC OnLine Bom 278
2 2006 SCC OnLine Bom 84
3 2023 SCC OnLine Bom 775
4 (1984) 2 SCC 436

So also there is no warrant for presuming the levy to be bad at the very threshold of the proceedings. The only consideration at that juncture is to ensure that no prejudice is occasioned to the rate payers in case they ultimately succeed at the conclusion of the proceedings. This object can be attained by requiring the body or authority levying the impost to give an undertaking to refund or adjust against future dues, the levy of tax or rate or a part thereof, as the case may be, in the event of the entire levy or a part thereof being ultimately held to be invalid by the Court without obliging the tax-payers to institute a civil suit in order to claim the amount already recovered from them. On the other hand, the Court cannot be unmindful of the need to protect the authority levying the tax, for, at that stage the Court has to proceed on the hypothesis that the challenge may or may not succeed. The Court has to show awareness of the fact that in a case like the present a municipality cannot function or meet its financial obligations if its source of revenue is blocked by an interim order restraining the municipality from recovering the taxes as per the impugned provision. And that the municipality has to maintain essential civic services like water supply, street lighting and public streets etc., apart from running public institutions like schools, dispensaries, libraries etc. What is more, supplies have to he purchased and salaries have to be paid. The grant of an interlocutory order of this nature would paralyze the administration and dislocate the entire working of the municipality. It seems that these serious ramifications of the matter were lost sight of while making the impugned order.

4.We will be failing in our duty if we do not advert to a feature which causes us dismay and distress. On a previous occasion, a Division Bench had vacated an interim order passed by a

> *learned Single Judge on similar facts in a similar situation. Even so when a similar matter giving rise to the present appeal came up again, the same learned Judge whose order had been reversed earlier, granted a nonspeaking interlocutory order of the aforesaid nature. This order was in turn confirmed by a Division Bench without a speaking order articulating reasons for granting a stay when the earlier Bench had vacated the stay. We mean no disrespect to the High Court in emphasizing the necessity for sell-imposed discipline in such matters in obeisance to such weighty institutional considerations like the need to maintain decorum and comity. So also we mean no disrespect to the High Court in stressing the need for self-discipline on the part of the High Court in passing interim orders without entering into the question of amplitude and width of the powers of the High Court to grant interim relief. The main purpose of passing an interim order is to evolve a workable formula or a workable arrangement to the extent called for by the demands of the situation keeping in mind the presumption regarding the constitutionality of the legislation and the vulnerability of the challenge, only in order that no irreparable injury in occasioned. The Court has therefore to strike a delicate balance after considering the pros and cons of the matter last larger public interest is not jeopardized and institutional embarrassment is eschewed.*

4. In view of the above, the learned Advocate for the Petitioner submits, on instructions, that the Petitioner would deposit 50% of the amount within 15 days from today and tender a complaint to the Corporation praying for information as regards the

manner of calculating the tax liability and the details of such calculation. Within 15 days thereafter, the Petitioner would deposit the remainder of the tax assessment amount, without prejudice to the rights and contentions of the Petitioner.

5. The learned Senior Advocate submits that after the two installments towards the total tax liability are deposited with the Corporation, it would furnish the details to the Petitioner within 3 days after receiving the last installment. The learned Advocate for the Petitioner submits that the Petitioner is agreeable.

6. The learned Senior Advocate submits that the Petitioner can tender its complaint under Rule 15, Chapter VIII, below Schedule D of the Maharashtra Municipal Corporations Act. As soon as the second installment is paid, it would allow a date of hearing to the Petitioner, and the Petitioner may physically appear for the hearing. The Petitioner may also tender written notes of submissions, and thereafter, an appropriate decision would be arrived at with reasons, within a period of 45 days after the conclusion of the hearing in the light of the provisions of law. The

learned Advocate for the Petitioner submits, on instructions, that the Petitioner is agreeable. The learned Senior Advocate submits that the Petitioner can file his complaint after depositing the amount under protest.

7. In view of the above and having recorded the statements made as above, **this Petition is disposed off**.

8. We, however, clarify that all contentions of the parties are kept open since the Petitioner would be depositing the amount under protest. Needless to state, eventually, if the Petitioner succeeds and it turns out that he has deposited excess amounts in view of the purported wrong assessment, the Corporation would refund the excess amount to the Petitioner or, if the Petitioner consents, adjust the said amount towards future bills of the Petitioner.

(ASHWIN D. BHOBE, J.) **(RAVINDRA V. GHUGE, J.)**