IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.7439 OF 2025

IN

WRIT PETITION NO.11112 OF 2022

SMITA RAJNIKANT JOSHI

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Date: 2025.04.24 10:12:20 +0530

Department of Goods and Service Tax .. Applicant.

In the matter of

Wellwisher Properties ..Petitioner.

Versus

Khopoli Municipal Council & Others .. Respondents.

Adv. S. D. Deshpande, *for the Applicant.*

Ms. Anisha Didwania *i/b. Rishabh Dhanuka, for Original Petitioner.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.

DATE: APRIL 23, 2025

P. C.

1. The Applicant (Org. Respondent No.2) has filed the above Interim Application, seeking the following reliefs:-

> *"(a) The Hon'ble Court be pleased to be call for record and proceedings of Writ Petition No.11112 of 2022 and upon perusal to further be pleased to issue appropriate direction to the registry to transfer the amount of Rs.38,94,868/- to the account of the Petitioner or the 1st Respondent and the Petitioner/1st Respondent who receive the amount to deposit the said amount in GST account through form GST DRC-03;*

(b) Ad-interim and interim relief in terms of prayer (a) above be granted;

(c) For such other and further relief as this Hon'ble Court thinks fit and proper in the facts and circumstances of the case."

2. While disposing of Writ Petition No.11112 of 2022 vide Order dated 27th July, 2023, it was specifically observed in paragraph Nos.5 and 7 as under:-

"5:- It is the case of the Petitioner that despite receipt of the GST amount by the Khopoli Municipal Council, it failed to make the payment and deposit the GST amount with the said GST Authorities. It is contended that the input credit for the GST was also pending on the GST portal. It is also contended that on account of the same, the Petitioner could not avail of the input credit in respect of the said GST amount. The Petitioner has filed representations, however, none of the representations were considered by the Respondent No.1. On this backdrop, the Petitioner has filed the present Petition, inter alia, praying for a direction that the Khopoli Municipal Council be directed to deposit an amount of Rs.38,94,868/- towards Goods and Services Tax to the GST Authorities.

7:- In pursuance of the above order, we are informed by the learned Counsel for the Khopoli Municipal Council that the amount of Rs.38,94,868/- has been deposited in this Court on 6th July, 2023 by demand draft. If that be so, what remains is the deposit of the said amount with the GST Authorities, in even proportion as per the requirement of the Central Goods and Services Tax (CGST) Act and also the Maharashtra State Goods and Services Tax (MGST) Act."

3. Thus, as per aforesaid observations, the payment of the said amount pertains to the GST Authorities i.e. in even proportion as per the

requirement of the Central Goods and Services Tax (CGST) Act and also the Maharashtra State Goods and Services Tax (MGST) Act.

4. In pursuance to the aforesaid directions, the Applicant (Org. Respondent No.2) has addressed letters to the concerned Pay & Accounts Officer (PAOs) and E-PAOs seeking bank account details. In response thereto, the PAOs and E-PAOs communicated their inability to get the GST amount transferred to any designated Bank Account because collection of GST amount is only through generation of challan in the common portal and cannot be deposited in any account maintained by the Government Departments other than GST Authorities.

5. *Prima facie,* we are satisfied with the prayer of the Applicant to direct the Registry to transfer the amount of Rs.38,94,868/- to the account of the Petitioner- Wellwisher Properties, and in turn, the said Petitioner shall deposit the said amount in GST account through form GST DRC-03.

6. Accordingly, the Registry is hereby directed to transfer the amount of Rs.38,94,868/- to the account of the Petitioner- Wellwisher Properties, and after receipt of the said amount, the Petitioner- Wellwisher Properties is directed to deposit the said amount with GST Authorities.

7. Interim Application is disposed of in the aforesaid terms. However, there shall be no order as to costs.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] [B. P. COLABAWALLA, J.]