Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7741 OF 2025

S.C. Deepak Chandra & Anr. … Petitioners
V/s.
The District Deputy Registrar, Coop.
Societies, Mumbai -1 (City) & Ors. … Respondents

WITH
CONTEMPT PETITION (ST.) NO.39693 OF 2025
IN
WRIT PETITION NO.7741 OF 2025

Shah & Nahar Industrial Premises
A1 Cooperative Housing Society Ltd. … Petitioner
V/s.
S.C. Deepak Chandra & Bipin Agrawal,
through Mr. Bipin Agrawal … Respondents

WITH
WRIT PETITION NO.7747 OF 2025

Brijbasi Prints & Packaging … Petitioner
V/s.
The District Deputy Registrar, Coop.
Societies, Mumbai & Ors. … Respondents

WITH
CONTEMPT PETITION (ST.) NO.39701 OF 2025
IN
WRIT PETITION NO.7747 OF 2025

Shah & Nahar Industrial Premises
A1 Cooperative Housing Society Ltd. … Petitioner
V/s.
Brijbasi Prints and Packaging,
through Pramod Agarwal … Respondent

Mr. S. C. Deepak Chandra, for Petitioner in WP No.7741/2025.

Mr. Bhavin Gada i/b Ms. Mandakini Kumari Singh, for Petitioner in WP No. 7747/2025.

Ms. Sukhada Wagle with Mr. Arman Mulla i/b RJD and Partners, for Respondent No. 3 in both Contempt Petitions.

Mr. Hamid Mulla, AGP for State-Respondent Nos. 1 and 2.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 2, 2026

P.C.:

1. As the questions of fact and law arising in both the petitions are identical and interrelated, they are being heard together and are disposed of by this common judgment in order to avoid repetition of facts and to ensure consistency in adjudication.

2. By these petitions, the petitioners call in question the legality and correctness of the orders passed by the authorities under the Maharashtra Cooperative Societies Act, whereby, in exercise of powers under Section 154-B-29, a recovery certificate has been issued directing the petitioners to pay the amounts specified therein towards the alleged dues of respondent No. 3 society.

3. The background facts leading to the filing of the present petitions are set out hereunder.

4. The petitioner claims ownership of Gala No. 123B and joint ownership of Gala No. 352. In or about the year 2017, respondent

No. 3 society instituted proceedings under Section 101 of the MCS Act against the petitioners claiming a sum of Rs. 9,44,865/-. The said application was adjudicated by respondent No. 2 in accordance with law.

5. Upon hearing the parties, respondent No. 2 passed an order dated 04th March, 2020 directing the petitioner to pay an amount of Rs. 3,24,659/-. Thereafter, on 08th December, 2023, respondent No. 3 preferred an application under Section 154-B-29 of the Act seeking issuance of a recovery certificate for various dues, which included property tax, water charges, common electricity charges, repair charges and other incidental amounts.

6. The petitioner filed a detailed reply opposing the said application. It was contended that the levy of GST by the society is contrary to the provisions of the GST Act and that the petitioner is not liable to bear GST in the manner sought to be imposed, even if the society is otherwise liable to discharge such tax. It was further contended that respondent No. 3 was under an obligation to furnish a true and correct statement of dues after adjusting excess and unlawful charges allegedly levied, and that the statement of account produced by the society was erroneous and not in accordance with law.

7. Both parties thereafter filed rejoinders and additional replies along with written submissions before the competent authority. By order dated 22nd April, 2024, respondent No. 2 directed the petitioner to pay a sum of Rs. 9,89,047/- and a further sum of Rs. 4,47,600/- along with Rs. 5,920/-. The said order is the subject matter of challenge in Writ Petition No. 7741 of 2025.

8. Being aggrieved, the petitioner preferred Revision Application Nos. 57 of 2024 and 58 of 2024 and complied with the requirement of Section 152(2-A) of the Act. Written submissions were also tendered before the Revisional Authority. By the impugned order dated 27th March, 2025, the Revisional Authority dismissed both the revision applications. It is in these circumstances that the present petitions have been instituted.

9. Learned counsel appearing for the petitioner in Writ Petition No. 7742 of 2025 and petitioner in person in Writ Petition No.7747 Of 2025 submitted that respondent No. 3 has levied GST in breach of Section 2(17)(e) of the GST Act and in disregard of the circular issued by the Ministry of Finance dated 22nd July, 2019, which clarifies that GST at the rate of 18% is attracted only where the maintenance charges per member exceed Rs. 7,500/- per month. According to the petitioner, the maintenance charges are approximately Rs. 3,500/- per month and therefore fall below the prescribed threshold. It was further urged that the society cannot avoid applicability of the circular by describing itself as an industrial estate society, as the principle underlying the circular would equally govern such societies. Learned counsel also submitted that the opening balance reflected in the account extract produced by the society before respondent No. 2 was itself incorrect. In support of this contention, the petitioner produced a separate statement of account prepared in accordance with law and certified by a Chartered Accountant, which, according to the petitioner, reflects the correct position. It was contended that respondent No. 2 failed to consider this material and did not scrutinize the entries in the society's account extract in accordance with statutory provisions. On these grounds, it was submitted that the impugned orders are liable to be set aside.

10. On the other hand, learned counsel for the society supported the impugned orders and submitted that GST is payable by an industrial estate society and that the circular dated 22nd July, 2019 applies only to housing societies. It was further contended that the GST component collected by the society is remitted to the Central Government and is not retained by the society. According to the society, any dispute as to liability or applicability of GST must be adjudicated by the competent authorities under the GST enactments and the Registrar exercising powers under Section 154-B-29 of the MCS Act has no jurisdiction to determine such issues. As regards the allegation of incorrect entries in the account extract, it was submitted that the reply filed by the petitioner before the Registrar, particularly paragraph 11 thereof, does not specify in what manner the maintenance charges were unlawfully levied.

11. It was therefore contended that in the absence of specific and detailed objections before the primary authority, the petitioner cannot be permitted to widen the scope of challenge either before the Revisional Authority or in the present writ proceedings. It was also urged that any alternative statement of account certified by a Chartered Accountant ought to have been produced before the first authority and cannot be introduced for the first time at the revisional stage. According to the society, the first authority has duly considered all defences raised and has rightly issued the recovery certificate under Section 154-B-29. On these submissions, dismissal of the writ petitions was sought.

Reasons and analysis

Jurisdiction of the Registrar and scope of Section 154-B-29.

12. Section 154-B-29 of the Maharashtra Cooperative Societies Act confers upon the Registrar the authority to issue a recovery certificate in respect of sums that have been determined to be due under the Act. The provision is intended to provide a remedy for recovery of amounts found payable in accordance with the statutory scheme. The Registrar, while acting under this section, performs a quasi judicial function. The recovery certificate crystallises the liability and enables its recovery through the statutory machinery. The Registrar adjudicates the amount found due.

13. It is necessary to bear in mind the limits of this power. The Registrar, when acting under Section 154-B-29, does not assume the role of a court of original jurisdiction. The provision does not contemplate a full-fledged trial on disputed questions that travel beyond the provisions of the Act. The Registrar cannot convert recovery proceedings into an independent forum for adjudicating issues which arise under tax statutes. The authority under this section cannot be treated as an unlimited power to adjudicate upon complex questions of tax liability arising under separate fiscal statutes. Determination of liability under the Goods and Services Tax Act is governed by a complete code. That Act prescribes its own forum of authorities, procedures, remedies, and manner of adjudication. To allow the Registrar to determine such issues in recovery proceedings under the cooperative Act would not be permissible.

14. However the Registrar is not absolved of scrutiny for enforcement of liability arising under the Act. Before issuing a recovery certificate, the Registrar must satisfy himself that the amount claimed arises from a prosions of the Act or bye-laws. He must examine whether the dues are otherwise supported by the record. The statement of account placed before him must have a foundation under the provisions of under the Act or bye laws. The Registrar cannot issue a certificate on a mere assertion unsupported by material.

15. On the other hand, when objections raised in recovery proceedings based on questions of tax interpretation under the GST Act, the Registrar must recognise the limits of his power. He may record the existence of the dispute. He may note the contentions advanced. However, he should refrain from rendering a definitive pronouncement on questions that properly fall within the jurisdiction of tax authorities. The recovery certificate in such cases must remain confined to sums that have been lawfully determined under the MCS Act, rule or bye laws, without taking adjudication under the GST Act. This limitation from the broader constitutional provisions. Legislative competence over cooperative societies and over taxation operates in distinct fields. Each statute creates its own adjudicatory athorities. The Registrar, therefore, while exercising power under Section 154-B-29, must act within these boundaries.

Whether the Revisional Authority misdirected itself.

16. The Revisional Authority examined the matter after giving an opportunity of hearing to both sides. The order adverted to the rival contentions, examined the material placed before it, and assigned reasons for confirming the decision of the first authority. The dismissal of the revision applications is thus supported by an sufficient reasoning and cannot be termed as mechanical.

17. The principal grievance urged by the petitioner before this Court is that the Revisional Authority failed to consider the account statement certified by a Chartered Accountant. It is therefore necessary to examine the scope of revisional jurisdiction under Section 154 of the Act and the compliance with Section 154(2-A). The record indicates that the statutory requirement of pre-deposit was fulfilled. The revision was thus maintainable. Once seized of the matter, the Revisional Authority was entitled to examine the material which formed part of the record.

18. However, revisional jurisdiction is not co-extensive with original adjudication. Where the first authority has conducted a hearing and recorded findings of fact, the Revisional Authority does not substitute its own view merely because another view is possible. Interference is warranted only where there is a demonstrable error of law, misapplication of statutory provisions, failure to consider relevant material, or findings that are so unreasonable that no prudent person could have arrived at them.

19. In the present case, the record does not disclose perversity or patent illegality in the findings of the first authority. The challenge is based on the CA-certified account statement. The difficulty for the petitioner lies in the stage at which this document was introduced. The alleged computational errors were not supported by detailed particulars before the Registrar. Paragraph 11 of the reply filed before the Registrar contained general assertions but did not provide details wrong calculations and did not show how the society's account was basically incorrect.

20. The Revisional Authority cannot consider such aspect of the matter which had no basis of foundational pleading before first authority by way specific details. In the absence of details at the first stage, the Registrar had no occasion to scrutinise the alleged discrepancies in a pointed manner. The petitioner cannot be permitted to reserve a detailed adjudication for the revisional stage and then contend that the first order stands vitiated for non-consideration of material that was never properly placed before the first authority.

21. The CA-certified statement, even assuming its correctness for argument's sake, represents an alternative calculation. It does not, by itself, establish that the original findings were perverse or unsupported by record. The Revisional Authority was therefore justified in declining to reopen the matter on the basis of material which ought to have been produced earlier with necessary particulars. A party who fails to furnish specific objections at the foundational stage cannot later seek to enlarge the scope of controversy in revision. The certificate did not travel beyond the liability due. In these circumstances, the Revisional Authority correctly concluded that there was no jurisdictional error or manifest illegality warranting interference. On a careful examination of the impugned order, it cannot be said that the Revisional Authority exceeded the limits of its statutory jurisdiction. The order, therefore, does not suffer from any infirmity that would justify interference in writ jurisdiction.

Standard of judicial review.

22. The scope of judicial review in matters arising under the Maharashtra Cooperative Societies Act is well defined. This Court does not sit in appeal over every factual determination recorded by the statutory authorities. The power exercised under Article 226 or 227 is supervisory in nature. It is intended to keep authorities under the Act within their jurisdiction, comply with the procedure prescribed by the Act, and observe the basic requirements of natural justice. It is not intended to substitute the Court's view on facts merely because another view is possible.

23. Interference is warranted where the authority has acted without jurisdiction, or has failed to comply with a mandatory statutory requirement. It may also arise where there is a clear violation of the principles of natural justice, such as denial of hearing or consideration of irrelevant material while ignoring relevant material. Further, where findings are so unreasonable that no rational person could have arrived at them on the material available, the Court may step in to correct such perversity.

24. In the present case, the Registrar issued the recovery certificate pursuant to an order determining the liability. The certificate reflects the amounts as found due and does not travel beyond the scope of that determination. The Registrar examined the statement of account and acted within the scheme of Section 154-B-29. There is no indication that the Registrar assumed a jurisdiction not vested in him or disregarded any mandatory provision or procedure. The Revisional Authority thereafter entertained the revision, ensured compliance with the statutory preconditions, heard the parties, and recorded reasons for confirming the order. The revisional order does not disclose non-application of mind. It indicates the contentions raised and provides a reasoned findings. Merely because the petitioner disagrees with the conclusion does not convert the order into one that is perverse. The petitioner has not demonstrated any jurisdictional infirmity, procedural illegality, or denial of natural justice. Nor has it been shown that the findings are so unreasonable as to warrant interference in writ jurisdiction. The points argued require a reappreciation of accounts and a reconsideration of matters already examined by the statutory authorities. Such an exercise falls outside the limited supervisory role of this Court.

25. In these circumstances, no ground is made out to invoke the extraordinary jurisdiction of this Court.

26. The writ petitions are dismissed.

27. In view of the final disposal of the writ petitions, no surviving issue remains for consideration in the connected contempt petitions. The contempt proceedings were instituted on the allegation that the petitioner had breached the interim order of this Court directing compliance with the quarterly bills during the pendency of the writ petitions. That interim direction operated subject to the outcome of the main proceedings. Now that the writ petitions stand dismissed and the recovery certificate has been upheld, the liability of the petitioner to pay the entire amount as quantified therein has been finally adjudicated. The interim arrangement, which was provisional in nature and intended to regulate payments during the pendency of the writ petitions, merges into the final adjudication. In these circumstances, it would serve no useful purpose to undertake an independent examination of the alleged breach of the interim order.

28. Contempt jurisdiction is exercised to enforce compliance with subsisting directions of the Court. Once the principal matter has been decided on merits and the liability itself has been affirmed, continuation of contempt proceedings founded on an interim direction becomes unnecessary.

29. Accordingly, the contempt petitions are disposed of. No further orders are required.

30. No order as to costs.

(AMIT BORKAR, J.)