(2025) 12 BOM CK 1675

In the Bombay High Court

Case No : Interim Application No.17757 Of 2022

Brihan Mumbai Mahanagar Palika & Anr — APPELLANT

Vs

Ashirwad Shelters Private Limited — RESPONDENT

Date of Decision : 10-12-2025

Acts Referred:
Maharashtra Municipal Corporations Act, 1949 — Section 218(D)

Citation : (2025) 12 BOM CK 1675

Hon'ble Judges : Jitendra Jain, J

Bench : Single Bench

Advocate : Pralhad Paranjape, Pallavi Khale, Pradeep Patil, Komal Punjabi, R. M. Nakhwa, Sanket Dhawan, Vasant Dhawan

Final Decision : Dismissed

Judgement

Jitendra Jain, J

1. This interim application is filed by the applicant-appellant-Corporation seeking condonation of delay of 4 years and 66 days i.e. 1526 days in filing an appeal before this Court challenging the order of the Small Causes Court, Mumbai. The impugned order is dated 2 May 2016 and the appeal is filed on 9 October 2020.

2. The issue involved in the appeal relates to determination of rateable value, on the basis of which the tax is collected by the Corporation. It is a source of revenue for the Corporation which is used towards discharge of their civic responsibilities and duties under the Mumbai Municipal Corporation Act, 1888 (MMC Act).

3. The determination of rateable value by the Corporation was challenged by the respondent by filing an appeal before the Small Causes Court, Mumbai. On 2 May 2016, the Small Causes Court allowed the appeal by restoring the rateable value of the property at Rs.7,40,530/- as against the original determination of Rs.1.42 crores by the Corporation, which was later on reduced on an application made by the respondent to Rs.30 lakh approximately. The period for which the rateable

value was in dispute pertained to year 2008-2009 and thereafter.

4. In the original interim application seeking condonation of the delay, very brief and sketchy reasons were given. Therefore, an additional affidavit explaining the delay was filed on 28 April 2025 i.e. almost after 9 to 10 years of the impugned order being passed.

5. The reasons given in the additional affidavit is that as per the policy of the Corporation, the decision for filing an appeal has to be taken by the Appeal Committee and the said Appeal Committee met on 11 August 2016, 2 December 2016, 15 April 2017 and final decision to challenge the order was taken on 17 June 2017. Admittedly, the appeal had to be filed within 30 days of the impugned order as per Section 218D of the MMC Act. If the section provides for a period of 30 days to file an appeal, I failed to understand how the meeting of the committee to decide whether to file an appeal should take place after the expiry of 30 days. These are revenue matters, and if it is the policy of the Corporation that the decision has to be taken by the Appeal Committee then the Appeal Committee should have met before the expiry of the limitation period and not after the expiry of limitation period for taking the decision.

6. In any case, assuming that the benefit of doubt is given to the Corporation being a public body, still, the determination of rateable value is not such a complex matter which the Appeal Committee should have taken more than a year to arrive at a conclusion that the appeal has to be filed. In revenue matters, the decision has to be taken fast and at a lightning speed and not at the speed with which the bureaucracy works and moves the file from one table to another. In this case, the Appeal Committee met on four occasions over a period of almost one year and then came to a decision to file an appeal. I failed to understand that in the absence of any complexity on the determination of rateable value, why the Appeal Committee should have taken such a long period of time.

7. Post June 2017 i.e. after the Appeal Committee took a decision to file an appeal, the same was communicated to the legal department of the Corporation on 15 November 2018. I failed to understand such a long delay in communicating the final decision of the committee to the concerned department for proceeding with filing an appeal. The delay is almost of one year and five months after the decision of the Appeal Committee and there is no explanation for the same.

8. The appeal was filed on 9 October 2020 i.e. almost around two years after the communication of the Appeal Committee’s decision to file an appeal to the legal department. I failed to understand such a long period of two years in filing the appeal after having taken the decision to file an appeal and after communicating the same to the concerned department.

9. The Corporation in almost all the matters, where there is a delay has been giving a general reply about the shortage of staff, overburden with the work,

inadequate number of advocates etc. These are the general reasons which have come to my notice in almost all the matters where there is a delay in filing the appeal by the Corporation. A Corporation like the Mumbai Municipal Corporation which is one of the world's richest Corporation and is entrusted with India's financial capital and is concerned with collection of revenue in the city where the market value of the property is one of the highest in the world, should equip itself with adequate number of infrastructure and manpower to handle the revenue matters so that the legitimate revenue due to the Corporation is not deprived on account of the delay in filing the appeal for such a long period of time. The Corporation does not have any cash crunch to employ and develop the infrastructure for complying with the provisions of law in a timely manner and moreso in revenue matters. In my view, the Corporation being a public body should be extra careful in handling such matters because ultimately it is the taxpayers money of each citizen of this city which is at stake when there is a revenue loss on account of non-recovery of assessment tax because of delay.

10. I hope that the concerned topmost officers of the Corporation would look into this matter and ensure that adequate number of lawyers and support staff are recruited so that the appeals are filed in time and the legitimate dues are recovered in time from the assessees.

11. One of the reasons given for the delay in the present application is that the delay is on account of Covid Pandemic. In my view, this cannot be accepted for more than one reason. The appeal had to be filed in June 2016 and the Covid Pandemic started in the beginning of 2020. The reason for Covid Pandemic can be taken only if the limitation expires after 20 March 2020 and not where the limitation has already expired in 2016 when nobody had dreamt of Covid coming in the year 2020. The Appeal Committee's decision and its communication to the concerned department for filing the appeal is also much before the Pandemic struck the world. Therefore, the reason given of Pandemic cannot be accepted.

12. In paragraph (l) of the additional affidavit, the Corporation has stated that there were changes in personnel and coordination issues between different departments and the legal team did not receive timely updates regarding procedural steps that needed to be undertaken for filing the first appeal. In my view, this is not for the first time that the Corporation is filing an appeal. The Corporation has been filing the appeal from the day when the Act came into force and, therefore, such reasons of lack of coordination, changes in personnel and non-receipt of timely steps cannot be grounds which the Corporation should have taken. It is not the case that during this period the working of the Corporation came to a standstill. These are only excuses and do not constitute sufficient cause for condoning the delay.

13. The reasons of heavy workload in handling various public issues and the officers of the Corporation being under tremendous pressure due to numerous pending cases also cannot be accepted. These internal issues have to be addressed by the Corporation by taking steps to recruit more staff for handling

the legal matters and in this case, moreso when the Corporation is cash rich and is concerned with revenue matters. There is no reason given as to why the Corporation has not taken any steps to expand and increase the manpower if there is a tremendous pressure on their existing staff to handle the present heavy workload. The Corporation should have acted more diligently to maintain its house in order and to rise to the situation which the city of Mumbai demands for meeting the heavy workload faced by the Corporation officers. I am sure that the concerned topmost officers of the Corporation will examine this issue and ensure that the Corporation is equipped with adequate manpower so that such incidents of non-compliance in timely manner are not repeated and the revenue of the Corporation remains secure.

14. The reasons given and described by me above cannot be regarded as "sufficient reason" for this Court to condone the delay. Though the Corporation is a public body it has to be judged with the same balance as that of a private party and moreso, when the revenue matters are concerned. If the Corporation is not diligent in taking such revenue matters seriously then the Corporation would be losing huge amount of revenue and such a course of action cannot be approved by this Court. It can lay down a wrong precedent of encouraging such delay in future and getting away lightly which this Court cannot permit to happen.

15. It is also not in dispute that the Corporation has all the means and wherewithal to ensure that there is timely compliance of the provisions of the law. If the Corporation expects the citizens of this city to comply with the laws in timely manner, then in my view, the Corporation cannot brush their hands when it comes to the timely compliance by them.

16. Recently the Hon'ble Supreme Court in the case of Shivamma (Dead) by Lrs. vs. Karnataka Housing Board & Ors. 2025 SCC OnLine SC 1969 has analysed whole law on the 'limitation' and 'sufficient reasons' and has also considered whether and to what extent leverage can be given if the delay is by public authority of public sector department. In my view, the ratio of this decision and more particularly paragraphs 116 to 219 squarely applies to the facts of the present case and, therefore, this Court has no option, but reluctantly has to dismiss the present application seeking condonation of delay, though it will deprive the Corporation of its revenue, if on merits they were right.

17. The interim application for condoning the delay is dismissed. Consequently, the First Appeal also stands dismissed and civil application for stay does not survive and is disposed of.