IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4278 OF 2018
WITH
CONTEMPT PETITION NO. 194 OF 2026

The Badlapur Industrial Welfare Association & Ors. ...Petitioners
Vs.
State of Maharashtra & Ors. ...Respondents

Mr. V. Sridharan, Senior Advocate with Mr. Saket Mone, Ms. Srushti Thorat and Mr. Archit Rao i/b. Vidhii Partners for Petitioners.
Mr. Kedar Dighe, Addl. G. P. with Mrs. P. J. Gavhane, AGP for State.
Mr. Dinesh Adsule with Mr. Chinmay Bhole for Respondent Nos.2 & 3 in Writ Petition.
Mr. Harshad Inamdar for Respondent Nos.2 & 3 in Contempt Petition.
Ms. Mrunal Tavade i/b. Little & Co. for MIDC.

CORAM: G. S. KULKARNI & AARTI SATHE, JJ.

DATE: 05 AUGUST 2026.

Oral Judgment (Per G. S. Kulkarni, J.) :-

1. The present writ petition is filed by the Badlapur Industrial Welfare Association, which represents its members who are allottees of plots in the Badlapur Industrial Area. They are undertaking industrial activities in the industrial units set up on the plots of land as allotted by the Maharashtra Industrial Development Corporation (for short, "**MIDC**"). The MIDC is constituted under the provisions of the Maharashtra Industrial Development Corporation Act, 1961 (for short, "**MIDC Act**"), which has established the industrial area in question at Badlapur. The petitioners contend that they have

been regularly paying service charges to the MIDC in respect of their industrial units set up on the allotted plots.

2. Challenge which is mounted in the petition is to the action of respondent no.2-Kulgaon Badlapur Municipal Council (for short, "**KBMC**") in seeking to levy property tax on capital value basis in respect of the petitioners' industrial units situated within the Badlapur MIDC Industrial Area. According to the petitioners, the land comprising the Badlapur Industrial area was acquired by MIDC sometime in 1969, following which various plots were allotted to the petitioners and other industrial units on a leasehold basis for a period of 95 years to set up industrial units and carry on the industrial activities.

3. It is the petitioners' case that KBMC, constituted under the Maharashtra Municipal Council, Nagar Panchayat and Industrial Townships Act, 1965 (for short, "**1965 Act**"), was levying property tax in respect of the industrial units. The petitioners state that they have been paying property tax to KBMC since the year 1999, with effect from the assessment year 1993 onwards. The petitioners contend that in August 2014, the KBMC carried out a survey of the entire Badlapur MIDC Industrial Area for the purpose of levying property tax on the basis of capital value. Thereafter, on 28 November 2015, KBMC issued special notices under Sections 119 and 124 of the 1965 Act to the industrial units to fix capital value on the basis of which property taxes would be levied on all the industrial units. Accordingly the KBMC invited objections/complaints on fixation of the capital value. Such notices were served upon the industrial units

on or about 07 December 2015.

4. The petitioner Association, on behalf of its members as well as the individual petitioners, within the time as prescribed, submitted objections/ complaints to the said special notices dated 28 November 2015. Although the industrial units were granted a hearing, which is stated to have been conducted collectively in respect of such objections, no orders or decisions are stated to have been passed by the KBMC on such objections. On such backdrop, it is the petitioners' case that KBMC started issuing bills on capital value, without deciding the petitioners' objections/complaints, as also started taking coercive steps, by attachment of property, for non-payment of property tax by petitioners' industrial units. It is on such backdrop, the petitioners have filed this petition contending that the members of the petitioners are the lessees of various plots in the MIDC Industrial area.

5. MIDC is a 'special planning authority' under Section 40 of the Maharashtra Regional and Town Planning Act, 1966 (for short, "**MRTP Act**"), having jurisdiction over MIDC area in the matters of preparation of draft plans, approval of plans, provisions of amenities like road, street light, drainage, etc. It is hence contended by the petitioners that Section 159A of the MRTP Act would get attracted, under which the First Schedule of the MRTP Act becomes applicable to the special planning authority. Clause 7 of the First Schedule deals with the property tax to provide that since the special planning authority provides all or some of the amenities and facilities which otherwise are to be provided by

local authority, such planning authority shall not be liable to pay any taxes to local authority. It is the petitioners' contention that the MIDC plots are thus clearly excluded from municipal taxation under Section 7 of the First Schedule read with Section 159A of the MRTP Act. It is submitted that KBMC can arrive at an agreement with MIDC for a lump sum contribution in regard to the facilities which have actually been provided by KBMC for the industrial area, however, although such statutory mandate was brought to the notice of the KBMC, no action on the petitioners' representation was taken. On such backdrop, as the KBMC proceeded further with the levy, the petitioners have approached this Court in the present proceedings praying for the following reliefs:-

> "(a) that this Hon'ble Court be pleased to issue a writ of certiorari or any other writ, order or direction in the nature of certiorari calling for the records and proceedings in respect of the issuance of special notices dated 28th November 2015 issued to the members of Petitioner No.1 Association including Petitioner Nos.2 to 6 and after examining the validity, legality and propriety thereof, be pleased to quash and set aside the same;
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> (b) that this Hon'ble Court be pleased to issue a writ of certiorari or any other writ, order or direction in the nature of certiorari calling for the records and proceedings in respect of the issuance of the bills for the years 2015-2016 and 2016-2017 by Respondent No.2 and 3 on capital value basis to the Industrial units situated within Badlapur Industrial Areas and after going through the validity, legality and propriety thereof, be pleased to quash and set aside the same;
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> (c) this Hon'ble Court be pleased to declare that Respondent Nos. 2 and 3 have no authority or jurisdiction to impose property tax on the industrial units situated within MIDC Industrial Area;
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> (d) that this Hon'ble Court be pleased to issue a writ of mandamus or any other writ, order or direction in the nature of mandamus directing Respondent No.1 to decide the representation made by Petitioner No.1 Association to State Government dated 5th April 2017 within a period of 4 weeks;

(e) that this Hon'ble Court be pleased to issue a writ of mandamus or any other writ, order or direction in the nature of mandamus directing Respondent No. 2 (KBMC) and Respondent no. 4 (MIDC) to perform their statutory obligations under Section 159A r/w Clause 7 of Schedule I of the MRTP Act, 1966. And to arrive at an agreement for lumpsum contributions in lieu of taxes to be paid.

(f) pending the hearing and final disposal of the petition, this Hon'ble Court be pleased to direct Respondents:

(i) not to levy and recover property tax on the industrial units within MIDC area on the members of Petitioner No.1 Association.

(ii) Not to take any coercive steps for the recovery of the bills already issued for the period 2015-2016 and 2016-2017

(g) For interim and ad-interim reliefs in terms of prayers (e) above;

(h) For costs;

(i) For such other and further reliefs as the_nature and circumstances of the case may require."

6. Mr. Sridharan, learned senior counsel for the petitioners, submitted that a co-ordinate Bench of this Court, by an order dated 10 October 2019, directed that the representation dated 04 April 2017 submitted by the petitioners, needs to be decided. In such order, the co-ordinate Bench recorded the petitioners' contentions that while changing the very basis of taxation from rateable value to capital value, the necessary procedure has not been followed i.e. the mandate of Sections 114 and 117 of the 1965 Act). Accordingly, the Court directed the petitioners to appear before the Secretary, Urban Development Department, Mantralaya, on 11 November 2019, when the Secretary shall hear the petitioners as also respondent nos.2 and 3 and pass suitable orders on their representations within four weeks. As the said order was not complied, the present contempt petition as placed before us came to be filed in January 2026. Mr. Sridharan

further submitted that, during the pendency of the present petition, the Supreme Court decided the very issue raised by the petitioners in its decision in **Small Scale Enterpreneurs Association & Ors. vs. The State of Maharashtra & Ors.**, Civil Appeal No. 7318 of 2010, by judgment dated 27 May 2026. He submitted that, in such case although several contentions were raised challenging the levy of taxes by the New Mumbai Municipal Corporation (for short, "**NMMC**"), one of the issues which fell for consideration was the applicability of Section 159A read with Clause 7(1) of the First Schedule to the MRTP Act, which is also the principal contention raised by the petitioners in the present proceedings. Before the Supreme Court, it was contended that, having regard to the said provisions, the liability to pay municipal taxes in respect of industrial plots vested with the MIDC and not with the unit holders or allottees of such plots. Mr. Sreedharan submits that the Supreme Court accepted such contention and held that the High Court had adopted a correct approach while interpreting the applicability of Section 159A read with Clause 7(1) of the First Schedule to the MRTP Act. The Supreme Court observed that Clause 7(1) of the First Schedule provides for an exemption to hold that the High Court while considering the issue in regard to exemption under Clause 7(1) of First Schedule to the MRTP Act adopted a narrow view and held that such exemption is permissible only to the relevant authority (MIDC in the present case) and not to the unit/plot holders situate within its jurisdiction. The Supreme Court held that the benefit of exemption provided under Clause 7(1) of First Schedule of the MRTP Act entails not only in favour of the MIDC but also to everyone holding land within its jurisdiction.

However, there is a caveat to it. The exemption available under Clause 7(1) of First Schedule of the MRTP Act would be only so long, till the facilities and amenities supposed to be provided by the local authority are being provided by the relevant authority (MIDC). It was observed that the moment the relevant authority (MIDC) stops providing those facilities and the responsibilities of the same are taken by the NMMC the benefit of the aforesaid exemption would cease to exist. The relevant observations as made by the Supreme Court are in such context required to be noted which read thus:-

> "**96.** The High Court while considering the above issue in regard to exemption under Clause 7(1) of First Schedule to the MRTP Act took a narrow view of the above provision and held that such an exemption is permissible only to the relevant authority (MIDC in the present case) and not to the unit/plot holders situate within its jurisdiction.
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> **97.** The statement and objects behind incorporating the Clause 7(1) of First Schedule to the MRTP Act, as placed before us by the appellants, in categorical terms states that it envisages to provide that buildings or lands belonging to, or vesting in a relevant authority or buildings constructed on land belonging to such authority be exempt from taxation by local authorities. The statement and objects read with Clause 7(1) further clearly provides exemption from taxation by local authorities to all buildings or lands belonging to or vesting in the relevant authority or constructed on land belonging to such authority. It must be remembered that TTC MIDC was constituted under the MID Act and was vested with the entire land of 19 villages for the purposes of development of an industrial area. Therefore, the entire land within the jurisdiction of the TTC MIDC vests with the MIDC and does not belong to individual unit/plot holder. They are only the lessees using the said land under certain terms and conditions but the ownership continues to vest with the MIDC. Therefore, the entire land within the industrial area of TTC MIDC belongs to or vest in the MIDC and, therefore, any building constructed on such land stands exempted from taxation, irrespective of the fact that the constructions have been raised by individual unit/plot holders.
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> **98.** The purpose of providing exemption under Clause 7(1) of First Schedule of the MRTP Act to the relevant authority (MIDC in the instant case) refers to entire land and buildings belonging to or vested in the relevant authority. This cannot be construed in a manner which may

render the provision useless or meaningless as there would be no purpose in granting exemption to the relevant authority (MIDC in the present case) who might hardly be owning/occupying any land and building of its own. All lands and buildings in the industrial area vest in the MIDC and, therefore, the exemption permitted under the aforesaid clause refers to the entire land and buildings in the area including those occupied by each unit/plot holder. Any other meaning, if given to the aforesaid clause, would render the exemption *otiose* and will lead to an absurd situation.

99. In view of the above discussion, we are of the opinion that the High Court misconstrued Clause 7(1) of First Schedule of the MRTP Act and gave it a too narrower meaning which is not warranted under the fact situation of the present case.

100. It must be kept in mind that in context with fiscal statutes, if there is any ambiguity in the interpretation of any provision or clause, the benefit of the same should always be given to the assessee. In this regard, reference may be had to *Government of Kerala* v. *Mother Superior Adoration Convent*[15], wherein it has been laid down that in the event of ambiguity in a beneficial tax exemption provision, the benefit accrues in favour of the assessee.

101. Therefore, in the overall facts and circumstances of the case, the benefit of exemption provided under Clause 7(1) of First Schedule of the MRTP Act goes not only in favour of the MIDC but also to everyone holding land within its jurisdiction. However, there is a caveat to it. The exemption available under Clause 7(1) of First Schedule of the MRTP Act would be only so long till the facilities and amenities supposed to be provided by the local authority are being provided by the relevant authority (MIDC). The moment the relevant authority (MIDC) stops providing those facilities and the responsibilities of the same are taken by the NMMC the benefit of the aforesaid exemption would cease to exist.

102. In the present case, ever since the establishment of MIDC in 1962 all such facilities and amenities in the industrial area of TTC MIDC were being provided by the MIDC. However, with effect from 16.12.2004, MIDC handed over the management of the industrial areas under its jurisdiction to NMMC with the clear understanding that it will not levy any service charge with effect from January, 2005 onwards.

103. In this connection, an agreement was also entered into between MIDC and NMMC on 01.12.2005 wherein it was decided to handover the roads along with street lights, drains and storm water drains in block wise manner for maintenance, upgradation and for providing all facilities in connection thereto to the NMMC who in turn agreed to take over the infrastructure development as provided by the MIDC. The said agreement *vide* paragraph 9 clearly stipulates that from the date of handing over, NMMC will look after the maintenance of roads along with street lights and storm water system of open/built up *nalla* and shall keep all roads neat and clean, free from weeds, shrubs etc. The NMMC will have full right to make any development work and necessary modifications in future as roads and lights services stand transferred to it. Even the land meant for public utility services such as public toilets, urban health posts stand transferred to the NMMC, provided the said land is not earmarked for industrial use.

104. Thus, in the light of the aforesaid agreement and the transfer of infrastructure facilities, their development and maintenance to the NMMC, the MIDC denuded itself of its power to provide those facilities and, in the result, to levy fee or service charge for providing the same. The burden for developing and maintaining the said facilities fell squarely upon the NMMC and, therefore, the exemption envisaged under Clause 7(1) of First Schedule to the MRTP Act ceases with effect from handing over of the said development and maintenance work to the NMMC. Since now, the said services are being provided by the local authority i.e., NMMC, there is no question of grant of exemption in payment of taxes or the property tax.

105. Based upon the above discussion, though the appellants or its members as also the MIDC stood exempted from payment of property tax to NMMC but only till the execution of the aforesaid agreement dated 01.12.2005. The benefit of said exemption would not be available to the MIDC or its unit/plot holders after the aforesaid date. It will be the jurisdiction of the NMMC to realise property tax after the aforesaid date in respect of the areas or the properties handed over or transferred to it. If, in any event, the areas and the properties are transferred to the NMMC in a phased manner, the exemption would cease to operate from the date of such transfer area wise.

106. In view of the aforesaid facts and circumstances and the discussion, we conclude that the TTC MIDC Industrial Area falls within the jurisdiction of the NMMC; the MIDC rightly realise fee/service charges for providing infrastructure and other amenities in the industrial area; the power to levy and collect property tax as provided under Sections 127 and 128-A of the MMC Act is only upon the NMMC; however, as the MIDC was providing the infrastructure facilities and amenities and was realizing fee/service charges, the MIDC including all its unit/plot holders were exempt from payment of tax under Clause 7(1) of First Schedule of MRTP Act, till the time those facilities were handed over to the NMMC whereupon it is within the sole domain of the NMMC to realise property tax without any exemption."

(emphasis added)

7. The aforesaid observations clearly go to show that when the MIDC is providing the infrastructure facilities and amenities and when it is realising fee/service charges, the MIDC including all its unit/plot holders would be exempt from payment of tax under clause 7(1) of the First Schedule of the MRTP Act till the time those amenities and facilities are handed over to the municipal authority, so as to shift the authority providing such amenities so as to

be in the domain of the municipal authority to realise property tax, without exemption.

8. Thus, applying the principles laid down by the Supreme Court, as rightly contended on behalf of the petitioners, even in the memo of the petition, it would be incumbent upon the KBMC to enter into an arrangement/ agreement with the MIDC in respect of those facilities which, according to the KBMC, are provided by it within the MIDC areas and in relation to which the KBMC would be entitled to receive such taxes as may be permissible in law. However, in the absence of any such arrangement or agreement, the observations of the Supreme Court in paragraph 101 and 106 of the aforesaid decision clearly support the petitioners' contention that the KBMC has no jurisdiction to levy taxes on such exempted land held by the MIDC, including the industrial plots allotted by the MIDC to the members of the petitioners, who derive their rights as allottees of such land.

9. In the aforesaid circumstances, in the light of the judgment of the Supreme Court in **Small Scale Enterpreneurs Association & Ors. vs. The State of Maharashtra & Ors.** (supra), we are of the opinion that the impugned demands, which have been directly raised in respect of the units of the petitioners' members cannot be sustained. However, we keep it open to the KBMC to undertake an appropriate exercise in respect of any facilities and amenities, if any, provided by the KBMC in the MIDC area in its capacity as the Planning Authority of the Badlapur MIDC area, in the manner recognized and permitted by law. It would also be open to the KBMC to enter into an appropriate agreement with the

MIDC for the levy of such taxes, if the circumstances so warrant. We keep all contentions of the parties in this regard expressly open.

10. We may also observe that, in the event of any impasse between the MIDC and the KBMC, it is always open to the authorities to approach the State Government. Any appropriate direction which may be issued by the State Government can thereafter be considered, and the authorities may take an appropriate course of action. In fact, this is what was intended by the interim order which was passed by this Court on 10 October 2019 in the present proceedings, when the Secretary, Urban Development Department, Mantralaya, was directed to consider the representation and resolve the issues.

11. The proceedings are accordingly disposed of in terms of the aforesaid observations. No costs.

12. Having regard to the view we have taken on the writ petition, in our opinion, there is no warrant in proceeding with the contempt petition. It is accordingly disposed of.

(AARTI SATHE, J.) **(G. S. KULKARNI, J.)**