



lgc

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 6924 OF 2013**

1. **SGS INFRATECH LIMITED SGC MALL,**  
231, Moledian Road Camp, Pune  
410001

...PETITIONER

~ versus ~

1. **UNION OF INDIA,**  
Through Secretary, Ministry of  
Defence, New Delhi.
2. **PUNE CANTONMENT BOARD,**  
Golibar Maidan,  
Pune - 411001
3. **CHIEF EXECUTIVE OFFICER,**  
Pune Cantonment Board,  
Golibar Maidan, Pune - 411001
4. **PRESIDENT,**  
Pune Cantonment Board,  
Golibar Maidan,  
Pune - 411001

...RESPONDENTS

**WITH**

**INTERIM APPLICATION NO.12990 OF 2024  
(INTERIM APPLICATION (ST) NO.26800 OF 2024)**

**IN**

**WRIT PETITION NO. 6924 OF 2013**

SGS INFRATECH LIMITED SGC MALL,

...APPLICANT/  
ORIGINAL PETITIONER

~ versus ~

UNION OF INDIA,  
and others

...RESPONDENTS

---

**APPEARANCES**

---

FOR THE PETITIONER

**Mr Arohi Bhalla**, with Mr Dinesh Gandhi, Mr Saahil Memon, Divyae Patel, and Ms Neha Dubey, i/b Link Legal India Law Services.

FOR RESPONDENT NOS.2 TO  
4

**Mr K. J. Presswalla**, with Mr Sandeep Goyal, i/b Mulla & Mulla & Craigie Blunt & Caroe.

---

**CORAM : M. S. Sonak &  
Kamal Khata, JJ.**

**RESERVED ON : 20 September 2024  
PRONOUNCED ON : 26 September 2024**

**JUDGMENT (Per M S Sonak J):-**

1. Heard learned counsel for the parties.
2. The Petitioner, who operates a Shopping Mall within the jurisdiction of the Pune Cantonment Board, has instituted this Petition seeking the following substantive reliefs:-

- a. Issue a writ in the nature of Certiorari or any other appropriate writ, order or direction thereby declaring the provisions of Section 96 of the Cantonment Act, 2006 as ultra vires;
- b. Issue a writ in the nature of Certiorari thereby quashing the individual provisional bills dated 7.03.2013 issued by Respondent No.3 u/s 99 of the Cantonment Act, 2006;
- c. Issue a writ in the nature of Certiorari thereby quashing the consequential demand notices dated 18.06.2013 issued by Respondent No.3 u/s 100 of the Cantonment Act, 2006;
- d. Issue a writ in the nature of mandamus thereby directing the Respondent No.2 and 3 to fix the annual ratable value for the triennial 2011-14 after hearing and deciding the objections of the petitioner;
- e. That until and unless the respondent no.2 and 3 do not fix the annual ratable value for the triennial 2011-14 after considering the objections of the petitioner, this Hon'ble Court may be pleased to stay the individual provisional bills dated 7.03.2013 issued by Respondent No.3 u/s 99 of the Cantonment Act, 2006 and also the consequential demand notices dated 18.06.2013 issued by Respondent No.3 u/s 100 of the Cantonment Act, 2006.

3. Rule was issued in this Petition on 21 August 2013. Certain ad-interim directions were also issued. By further order dated 28 March 2014, two Civil Applications instituted by the Petitioner seeking interim relief were disposed of.

4. The operative portion of the order dated 28 March 2014, by which some limited interim relief was granted to the Petitioner subject to the Petitioner depositing the full amount of tax for the triennial 2011-12 to 2013-14 at the rate

applicable for the triennial 2008-09 to 2010-11, reads as follows:-

13. In view of the above, we dispose of the two civil applications with the following directions:
  - (a) The petitioner shall file an appeal to the District Court, Pune challenging the assessment for the triennial 2011-12 to 2013-14 as per the order dated 25 October 2013 within 2 weeks from today. If such appeal is filed by the petitioner within 3 weeks from today, the District Court, Pune shall entertain the appeal without raising objection on the ground of limitation;
  - (b) As regards the petitioner's appeal for the 2008-09 to 2010-11, the District Court, Pune shall hear and decide the appeal as expeditiously as possible and, in any case, within 4 months from today, i.e. by 31 July 2014;
  - (c) The petitioner will deposit the full amount of tax for the triennial 2011-12 to 2013-14 at the rate applicable for the triennial 2008-09 to 2010-11 without prejudice to the rights and contentions of the parties. The amount shall be deposited in three equal instalments to be paid by 25 April 2014, 25 May 2014 and 25 June 2014; and
  - (d) After the appeal for the triennial 2008-09 to 2010-11 is decided by the District Court, the District Court will pass further orders as regards tax to be deposited by the petitioner for the triennial 2011-12 to 2013-14 as per order dated 25 October 2013 during the pendency of the appeal before it after taking into consideration the outcome of the appeal for the triennial 2008-09 to 2010-11.
14. It is clarified that this interim protection is upto 31 July 2014 by which time the District Court shall hear and decide the appeal for the triennial 2008-09 to 2010-11. Thereafter the District Court will pass the appropriate orders for the triennial 2011-12 to 2013-14.

5. The Appeal instituted by the Petitioner in pursuance of the liberty granted by the above order dated 28 March 2014

has already been disposed of. The same is the subject matter of an independent challenge in a separate Writ Petition. Therefore, Mr. K J Presswalla, the learned counsel for Respondents 2 to 4 (Cantonment Board), did submit that the reliefs in the present Petition have been rendered infructuous.

6. Mr Arohi Bhalla, the learned counsel for the Petitioner, however, submitted that the issue of the constitutional validity of Section 96 of the Cantonment Act, 2006 (“the said Act”) remains and ought to be decided in this Petition. He submitted that because of this statutory provision, the Petitioner had faced considerable hardship in prosecuting the Appeals for further triennials.

7. Accordingly, the learned counsel for the parties were heard on the issue of constitutional validity of Section 96(b) of the said Act.

8. Mr. Bhalla, after referring to the provisions of Chapter V of the said Act, submitted that the general power of taxation vested by the legislature with the Cantonment Board under Section 66 of the said Act is neither to be construed as unfettered nor arbitrary. He submitted that on most occasions, the Boards determine the Annual Rateable Value or other parameters necessary for taxation arbitrarily and unreasonably. He submitted that even the powers vested in the precedent of the Cantonment Board under the Proviso to Section 73 of the said Act are not unfettered or unguided. He

submitted that all such powers determining the tax rate must be exercised reasonably and not arbitrarily. Still, he submitted that such powers are most often exercised arbitrarily or unreasonably.

9. Mr. Bhalla submitted that Section 96(b) of the said Act provides that no appeal shall be heard or determined by the Appellate Authority under Chapter V of the said Act unless the amount, including the assessed tax or duty, if any, in dispute in the appeal shall be deposited by the appellant every year on or before the due date in the office of the Board till the appeal is decided by the District Court. He submits that since the taxes are arbitrarily and unreasonably determined, the requirement to deposit and keep on depositing the amount in dispute as a pre-condition for hearing the appeal by the Appellate Authority is *ex-facie* arbitrary, unreasonable and unconstitutional.

10. Mr Bhalla submitted that Section 96(b) of the said Act violates Articles 14 and 19(1)(g) of the Constitution. He submitted that in most taxing statutes, whether direct or indirect, a provision is invariably made enabling the Appellate Authority to waive the deposit in genuine cases where hardship would be severed. He submitted that no such provision has been made in Section 96(b) of the said Act, and this omission violates Article 14 of the Constitution.

**11.** Mr. Bhalla submitted that imposition of the condition of depositing the entire disputed amount as a pre-condition for the final hearing of the Appeal amounts to imposition of unreasonable restriction on the Petitioner's right to carry on any trade, occupation or business. He submitted that the Petitioner's business is severely hampered due to such a condition/restriction. He submitted that such a restriction is not covered by any of the provisions of Article 19(6) of the Constitution. Accordingly, he submitted that Section 96(b) of the said Act is ultra vires, unconstitutional, null and void.

**12.** Mr. Bhalla pointed out that the taxation rates increased substantially each triennial. He submitted that such an increase was exponential and inconsistent with the mechanism for determining the basic parameters prescribed under Chapter V of the said Act. He submitted that the Petitioner was still forced to deposit the disputed amount to have the Appeal against such an arbitrary determination heard finally.

**13.** For all the above reasons, Mr. Bhalla submitted that the provisions of Section 96(b) of the said Act be declared as ultra vires, unconstitutional, null and void.

**14.** Mr. Presswalla, the learned counsel for the Respondents-Cantonment Board, submitted that the provisions of Section 96(b) of the said Act are identical to Section 87(b) of the Cantonments Act 1924. He submitted that the Cantonments

Act 1924 was superseded and substituted by the Cantonments Act 2006 (the said Act). He submitted that the constitutional validity of Section 87(b) of the Cantonments Act 1924 was upheld by the Hon'ble Supreme Court in **St. Mary's School and others Versus Cantonment Board, Meerut and others**<sup>1</sup>. Accordingly, he submitted that no case was made to re-visit the issue of constitutional validity of Section 96(b) of the said Act based on the contentions raised in this Petition.

**15.** Mr. Presswalla submitted that the contention regarding the constitutional validity of Section 96(b) of the said Act raised in this Petition was considered and rejected by the Hon'ble Supreme Court in **St. Mary's School** (supra). In any event, Mr. Presswalla submitted that the mere raising of some different contention or the same contention being packaged differently is never grounds to re-visit the issue of constitutional validity already settled by the Hon'ble Supreme Court.

**16.** Mr. Presswalla submitted that there is never any inherent right of an appeal. Therefore, in the present case, if the right of appeal is hedged with a condition for depositing the disputed amount, there is nothing arbitrary or discriminatory in such a provision. He submitted that no restriction or unreasonable restriction had been imposed upon the Petitioner's right to conduct business following the law. He submitted that the Petitioner owes over Rupees Sixty Five

---

<sup>1</sup> (1996) 7 SCC 484



Crores to the Board towards property taxes. The Appeals instituted by the Petitioner in the past have also not met with any considerable success. He submitted that this Petition was a ploy to avoid paying legitimate taxes to the Board. Accordingly, he submitted that this Petition may be dismissed with costs.

17. The rival contentions now fall for our determination.
18. The main issue surviving in this Petition concerns the constitutional validity of Section 96(b) of the said Act.
19. Section 96 of the said Act reads as follows:-

**“96. Conditions of right to appeal.-** No appeal shall be heard or determined under this Chapter unless-

(a) the appeal is, in the case of a tax assessed on the annual rateable value of buildings or lands or both, brought within thirty days next after the date of the authentication of the assessment list under section 77 (exclusive of the time required for obtaining a copy of the relevant entries therein), or, as the case may be, within thirty days of the date on which an amendment is finally made under section 79 and in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or of alteration of assessment or, if no notice has been given, within thirty days next after the date of the presentation of the first bill in respect thereof:

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the District Court before whom the appeal is preferred that he had sufficient cause for not preferring it within that period;

(b) the amount including the assessed tax or duty, if any, in dispute in the appeal shall be deposited by the appellant

every year on or before the due date in the office of the Board till the appeal is decided by the District Court.

**20.** Before the said Act entered force on 13 September 2006, the law relating to the administration of cantonments was the Cantonments Act 1924. Section 87 of the Cantonments Act 1924 was a provision *pari materia* with Section 96 of the said Act. The same reads as follows:-

**“87. Conditions of right to appeal.-** No appeal shall be heard or determined under this Chapter unless-

(a) the appeal is, in the case of a tax assessed on the annual value of buildings or lands or both, brought within thirty days next after the date of the authentication of the assessment list under section 69 (exclusive of the time requisite for obtaining a copy of the relevant entries therein), or as the case may be, within thirty days of the date on which an amendment is finally made under section 71, and, in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or of alteration of assessment or, if no notice has been given, within thirty days next after the date of the presentation of the first bill in respect thereof:

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the [District Court] before whom the appeal is preferred that he had sufficient cause for not preferring it within that period;

(b) the amount, if any, in dispute in the appeal has been deposited by the appellant in the office of the [Board].”

**21.** In *St. Mary's School (supra)*, the Hon'ble Supreme Court upheld the constitutional validity of Section 87(b) of the

Cantonments Act 1924. For this, the Hon'ble Supreme Court relied upon **Shyam Kishore v. Municipal Corporation of Delhi**<sup>2</sup>.

**22.** The relevant discussion on the issue of the constitutional validity of Section 87(b) of the Cantonments Act 1924 is in paragraph 3, which reads as follows:-

3. Shri Sorabjee, learned counsel for the appellants, challenges the validity of Section 87 on the ground that it places onerous conditions in the way of the right of appeal. The learned counsel relies upon the decision of this Court in *Shyam Kishore v. Municipal Corpn. of Delhi* which deals with a similar provision of appeal, viz., Section 107(b) of the Delhi Municipal Corporation Act, 1957. The validity of the said provision was challenged and it was repelled with the following observations and clarifications: (SCC p. 46, para 44)

"... We see nothing wrong in interpreting the provision as permitting the appellate authority to adjourn the hearing of the appeal thus giving time to the assessee to pay the tax or even specifically granting time or instalments to enable the assessee to deposit the disputed tax where the case merits it, so long as it does not unduly interfere with the appellate court's calendar of hearings. His powers, however, should stop short of staying the recovery of the tax till the disposal of the appeal. We say this because it is one thing for the judge to adjourn the hearing leaving it to the assessee to pay up the tax before the adjourned date or permitting the assessee to pay up the tax, if he can, in accordance with his directions before the appeal is heard. In doing so, he does not and cannot injunct the department from recovering the tax, if they wish to do so. He is only giving a chance to the assessee to pay up the tax if he wants the appeal to be heard. It is, however, a totally different thing for the judge to stay the recovery till the disposal of the appeal; that would result in modifying the language of the proviso to read: 'no appeal shall be disposed of until the tax is paid'. Short of this, however, there is no

---

2 (1993) 1 SCC 22

reason to restrict the power unduly; all he has to do is to ensure that the entire tax in dispute is paid up by the time the appeal is actually heard on its merits. We would, therefore, read clause (b) of Section 170 only as a bar to the hearing of the appeal and its disposal on merit and not as a bar to the entertainment of the appeal itself."

23. Since the constitutional validity of a *para materia* provision from the 1924 Act has already been upheld by the Hon'ble Supreme Court, it would not be proper for this Court to re-visit the issue on the grounds urged by Mr Bhalla. Still, Mr. Bhalla submitted that his challenge was on grounds different than those considered by the Hon'ble Supreme Court *St. Mary's School (supra)*. Therefore, there was no bar to considering the challenge on the grounds now raised by him.

24. Such contention, with respect, cannot be accepted. Firstly, there is no qualitative difference in the contentions raised; secondly, a precedent's binding efficacy cannot be watered down in this manner. It is well settled that the binding decisions of the Hon'ble Supreme Court cannot be distinguished or bypassed because a particular argument was not allegedly addressed or considered.

25. In **State of Gujarat and another v. Justice R. A. Mehta (Retired) and others**<sup>3</sup>, the Hon'ble Supreme Court has clarified that even if a particular issue has not been agitated earlier, or a particular argument was advanced but was not considered, the said judgment does not lose its binding effect, provided

---

<sup>3</sup> (2013) 3 SCC 1

that the point with reference to which an argument is subsequently advanced, has actually been decided. The decision, therefore, would not lose its authority “merely because it was badly argued, inadequately considered or fallaciously reasoned”. The case must be considered, taking note of the ratio decidendi of the same, i.e., the general reasons, or the general grounds upon which the decision of the court is based, or on the test or abstract of the specific peculiarities of the particular case, which finally gives rise to the decision.

26. Similarly, in **Amritlal v. Shantilal Soni and others**<sup>4</sup>, the Hon’ble Supreme Court held that a decision of the Constitution Bench could not be questioned on certain suggestions about different interpretations of the provisions under consideration. It remains trite that the binding effect of a decision of the Court does not depend upon whether a particular argument was considered or not, provided the point with reference to which the argument is advanced was actually decided therein.

27. In **Delhi Cloth and General Mills Ltd v. Shambhu Nath Mukherji and others**<sup>5</sup>, the constitutional validity of Section 10 of the Industrial Disputes Act, 1947 was sought to be challenged, even though the constitutional validity of this provision had already been upheld in **Niemla Textile Finishing**

---

4 (2022) 13 SCC 128

5 (1977) 4 SCC 415

**Mills Ltd. v. The 2nd Punjab Industrial Tribunal**<sup>6</sup>. The Appellant had argued that the ground now raised differed from the one raised in *Niemia Textile Finishing Mills (supra)*.

28. However, the Hon'ble Supreme Court did not permit the Appellant to once again question the constitutional validity of Section 10 by holding that if the Court has already held Section 10 as *intra vires* and repelled the objection under Article 14, it would not be permissible to raise the question again by submitting that a new ground could be raised to sustain the objection. The Court held that it is certainly easy to discover fresh grounds of attack to sustain the same objection, but that cannot be permitted once the law has been laid down by the Supreme Court holding that Section 10 does not violate Article 14 of the Constitution.

29. In any event, the arguments now canvassed by Mr Bhalla were considered and rejected by a catena of decisions, some of which are referred to hereafter.

30. In **Gujarat Agro Industries Co. Ltd v. Municipal Corporation of the City of Ahmedabad and Ors**<sup>7</sup>, the Hon'ble Supreme Court was concerned with the constitutional validity of Section 406(2)(e) of the Bombay Provincial Municipal Corporations Act, 1949, which had provided that no appeal against determination of any ratable value or tax shall be entertained unless the amount of disputed tax claimed from

---

6 AIR 1957 SC 329

7 (1999) 4 SCC 468

the appellant or the amount of tax chargeable based on the disputed ratable value, up to the date of filing the appeal has been deposited by the appellant with the Commissioner. The proviso had no doubt conferred a discretion on the appellate Judge to dispense with a part of the amount deposited so however, that the part of the amount so dispensed with shall not exceed twenty-five per cent of the amount deposited or required to be deposited. Thus, the requirement was for a deposit of a minimum of seventy-five per cent of the disputed amount.

**31.** The Hon'ble Supreme Court, after referring to several earlier precedents, held that the right to appeal is neither an absolute right nor an ingredient of natural justice, the principles of which must be followed in all judicial and quasi-judicial adjudications. The right to appeal is a statutory right, and the grant's conditions can circumscribe it. The Hon'ble Supreme Court held that any challenge to its constitutional validity on the ground that onerous conditions have been imposed and the right to appeal has become illusory must be negated. This decision answers Mr Bhalla's contention about onerous conditions or hardships hedging the right to appeal the tax determination.

**32.** In **Elora Construction Co. v. Municipal Corporation of Greater Bombay**<sup>8</sup>, the Division Bench of this Court was concerned with the provisions of Section 217(2)(d) of the Bombay Municipal Corporations Act, 1888. This section

---

<sup>8</sup> AIR 1980 Bom 162

provided that in case of an appeal against a tax or a ratable value, the disputed tax claimed from the appellant, or the amount of tax chargeable based on disputed ratable value, up to the date of filing of the appeal had to be deposited by the appellant before the Commissioner as a pre-condition for consideration of the appeal. The Division Bench of this Court upheld the constitutional validity of such a provision, and this was approved by the Hon'ble Supreme Court in *Gujarat Agro Industries Co. Ltd. (supra)*.

**33.** The Calcutta High Court in **Chatter Singh Baid v Corporation of Calcutta**<sup>9</sup> upheld similar provisions in Section 183(3-A) of the Calcutta Municipal Act, 1951, which had provided that no appeal shall be entertained unless the consolidated rate payable up to the date of the presentation of the appeal on the valuation determined had been deposited in the municipal office and such consolidated rate was continued to be deposited until the appeal was finally decided.

**34.** In **Peninsula Land Ltd., Mumbai v. Brihan Mumbai Mahanagarpalika and others**<sup>10</sup>, the Division Bench of the Bombay High Court comprising of Swatanter Kumar, C.J. and Dr D. Y. Chandrachud, J (as their lordships then were) upheld the constitutional validity of Section 217(5) of the Mumbai Municipal Corporation Act by holding that the provision does not place an unreasonable restriction upon the property taxpayers' right to prefer an appeal. The scheme is in

---

<sup>9</sup> AIR 1984 Cal 283

<sup>10</sup> 2009(1) Mh. L.J.710



complete consonance with the constitutional mandate and does not suffer from the vice of arbitrariness, unreasonableness or unconstitutionality.

**35.** The Division Bench held that the fact that a statute providing for an appeal imposes some restriction for preferring the appeal by itself cannot be termed as an entirely arbitrary or unconstitutional restriction. The right to appeal is to be regulated by the statute. Once it provides for the remedy to be preferred in a particular way, the Court can hardly interfere in such prescription of pre-conditions to the entertainment or hearing of the appeal. The Court held that the provisions of Section 217(5) are not discriminatory and no presumption of arbitrary exercise of powers by the officers of the Corporation can be drawn in the face of constitutionality. The Court also held that the right of appeal provided in Section 217(5) is a statutory right. Therefore, the legislature can control and limit the circumstances and manner in which such an appeal can be filed. Conditions can also be imposed with regard to conditions precedent to filing and entertainment of an appeal.

**36.** Finally, another Division Bench of this Court, comprising A. S. Oka, J (as his lordship then was) and M. S. Sonak, J, in **Walchandnagar Industries Ltd. Mumbai v. Municipal Corporation of the City of Pune and others**<sup>11</sup> upheld the constitutional validity of Section 406(2)(e) of the Maharashtra Municipal Corporations Act, 1949. Arguments

---

<sup>11</sup> 2014(2) Mh. L. J. 852

similar to those now raised by Mr. Bhalla were considered and rejected.

**37.** In upholding the constitutional validity of the clauses that provide for pre-deposit of disputed amount as a pre-condition for the entertainment of an appeal, the Division Bench reiterated that the right of appeal is a creature of a statute. It is for the legislature to decide whether the right of appeal should be unconditionally given to an aggrieved party or it should be conditionally given. If the statute does not create any right of appeal, then no appeal can be filed. The right to appeal is neither an absolute right nor an ingredient of the principles of natural justice. The right of appeal inheres in no one, and therefore, for want of maintainability of an appeal, there must be authority of law. When such a law authorises the filing of an appeal, it can impose conditions as well. The object of such provisions is to balance the right of appeal conferred upon a person aggrieved with a demand of tax and the right of the Corporation to speedy tax recovery. A disability or disadvantage arising from parties' default or omission cannot be considered equivalent to creating two classes offensive to Article 14 of the Constitution, primarily when that disability or disadvantage operates upon all persons who make the default or omission.

**38.** The Division Bench also held that the provisions relating to municipal taxation deal with tax recovery upon lands and buildings in municipal areas. In a sense, therefore, the Court

was concerned with a statute dealing with an economic matter. In economic issues, there is always a presumption in favour of the constitutionality of a statute. Every legislation, particularly on economic issues, is essentially empiric and based on experimentation or what one may call the trial and error method. There may be crudities and inequities in complicated experimental economic legislation, but such statutes cannot be struck down as invalid on that account alone.

**39.** The Division Bench held that the Courts cannot be converted into tribunals to relieve such crudities and inequities. The Court must, therefore, adjudge the constitutionality of such legislation by the generality of its provisions and not by its crudities or inequities or by the possibilities of abuse of any of its provisions. The Court must defer to legislative judgment in matters relating to social and economic policies and must not interfere unless the exercise of legislative judgment appears to be palpably arbitrary. (*see R. K. Garg vs. Union of India, 1981(4) SCC 675*).

**40.** The Court also held that the intent of legislature cannot be defeated merely for the reason that it may operate a bit harshly on a small section of people where it may be necessary to make such provisions for achieving the desired objective of providing a right of appeal and at the same time prevent unnecessary delay in recovery of tax. If the very provision for an appeal cannot be regarded as a constitutional

mandate or requirement of the principles of natural justice, surely the provisions for an appeal, even if hedged with conditions, do not fall foul of any constitutional guarantees merely because, in a given case, some hardship might result.

**41.** Mr Bhalla's contention that Cantonment Boards primarily determine the tax or the annual rateable value arbitrarily or unreasonably cannot be accepted. Such a contention is not made good by credible or empirical data, even assuming that such data would afford a good ground to strike down legislation. The circumstance that the Petitioner regards the determination as excessive is hardly worth consideration. There is a presumption of constitutionality in such matters. Some hardships or crudities in a particular case cannot be grounds to strike down legislation. Incidentally, even the appeal court found nothing arbitrary or excessive in the Board's determination. Even abuse in a particular case is not good grounds to strike down legislation. The Court must, therefore, adjudge the constitutionality of such legislation by the generality of its provisions and not by its crudities or inequities or by the possibilities of abuse of any of its provisions.

**42.** The impugned provision imposes no unreasonable restriction on the Petitioner's right to carry on any trade, occupation or business. As noted earlier, the right to appeal tax determination is not some inherent or fundamental right. Therefore, if the statute which gives such a right hedges that

right with some preconditions about depositing the disputed amount, there is no constitutional infirmity involved. Such arguments have already been rejected in the precedents referred to above.

**43.** The circumstance that some statutes have provisions for the deposit of only a portion of the disputed tax demand or for a complete waiver upon making out a case of hardship, and there is no such provision in the said act is not good grounds to complain of discrimination and infringement of Article 14. These are matters of legislative policy. Particularly in legislation concerning economic issues like taxation by local bodies, the Court must defer to legislative judgment and not interfere unless the exercise of legislative judgment appears to be palpably arbitrary.

**44.** For all the above reasons, we detect no constitutional infirmity in the provisions of Section 96(b) of the said Act. The provision neither contravenes the equality clauses in Article 14 nor imposes any unreasonable restriction on the right under Article 19(1)(g) of the Constitution. Accordingly, no case is made out for granting relief in terms of prayer clause (a) of the Petition.

**45.** Considering the subsequent developments and otherwise, no case is made out to grant relief in terms of prayer clauses (b), (c), (d), and (e). As noted earlier, the Petitioner was granted liberty to institute an Appeal, and such

an appeal has since been disposed of. The Petitioner has already questioned the decision of the Appellate Authority by instituting a separate Writ Petition, which pertains to the assignment of a learned Single Judge.

46. For all the above reasons, the Rule in this Petition is discharged. This Petition is dismissed without any order for costs.

47. However, it is clarified that no observations in this judgment and order are intended to influence the proceedings in Writ Petition No.1483 of 2016, in which the Petitioner has challenged the Appellate Authority's order dismissing the Petitioner's appeal on merits.

48. The Interim Application No.12990 of 2024 in this Petition stands disposed of by order dated 20 September 2024 made in Writ Petition No.1483 of 2016 by which de-tagging was allowed. In any event the same no longer survives and is hereby disposed of.

(Kamal Khata, J)

(M. S. Sonak, J)