

Asif Zakaria

Ex Municipal Councillor
Ward No. 101 - Bandra (West)
Ex Member : Standing Committee



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5th April 2023

Dr. Iqbal Singh Chahal,
Municipal Commissioner,
BrihanmumbaiMahnagaraplaika,
Mumbai.

Sub: Reduction in Property Tax and re-working of Capital Value system subsequent to dismissal of Special Review Petition in Hon'ble Supreme Court.

The above issue has been raised by me for the past decade at various meetings of Standing Committee, Budget and Corporation since the Capital Valuation system was implemented by the BMC in 2012.

The Capital Valuation Rules 2010 implemented in March 2012 were defective, faulty and not in consonance with the Amendment Act were repeatedly highlighted in the past in several meetings of the Standing Committee, Budget Meetings and Corporation.

Eventually, Hon'ble High Court by its order dated 24 th April 2019 had set aside certain rules more particularly Rule no. 20, 21 and 22. Further the Hon'ble Supreme Court by its order dated 7th November 2022 has upheld the decision of the Hon'ble High Court and have further dismissed the Review Petition.

Salient points of the Orders as are under :-

1. Assessment to be from the date of implementation of the Rules i.e. from 2012 onwards
2. Rule 20,21 and 22 of the CVS Rules 2010 and 2015 have been struck.
3. Corporation has been directed to reframe the said rules.
4. Special Assessment order and final bills raised/issued under CVS w.e.f. 2010 are quashed and set aside.
5. Corporation to re-determine the Capital Value of Property for assessment of taxes and follow the process as provided in the Act.
6. Assessment of vacant land / open land on FSI 1 and not on potential FSI.

As a result, following changes will have to be made :-

- 1) Property tax for the year 2010 to 2012 to be taxed as per the Rateable Value system.
- 2) Assessment of Capital Valuation on the basis of carpet area instead of Built up area. Further the rate under the Stamp Duty Ready Reckoner is a BUA rate which has a component of 1.2 factor.
- 3) Open/ Vacant land to assessed on FSI 1 and not on potential FSI. The Corporation was charging tax as per the potential of the plot or approved plan with 2.5 FSI/ 4 FSI as per the project.

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- 4) As regards to the Old building assessment/arriving on the capital value the depreciation factor was adopted from rules and not from the Ready Reckoner. To consider the depreciation from Ready Recknor as building rates are taken from Ready Reckoner which has been fixed considering the guideline of ready reckoner.

All the above will need a major reworking of the Capital Value System and a refund will need to be given to the citizen who has paid the full amount along with interest as per section 140 A(2) as in the majority of the cases the Corporation has wrongfully forced the citizens in paying the full amounts.

The same being further justified as the Corporation in terms of the Hon'ble High Court interim order while accepting the payment of 100% (RV) and incremental 50% (CVS), had taken the affidavit from the tax payers stating that they in case the court negatives the challenge raised by the Petitioner, the tax payers shall pay the balance amount along with the interest.

As per the information provided by the Corporation at the Standing Committee meeting of 7th February 2020, there was an outstanding of Rs.16,167.78 Crores out of which Rs. 2218.72 Crores was of the old Rateable Value system and Rs.13949.06 Crores was of the New Capital Value System post 2010. The amount might have further increased upto 2023.

The same clearly highlights that due to faulty implementation and despite raising and highlighting the issue repeatedly for 10 years, Corporation has failed in the proper execution of the Capital Value System and the same has resulted in a major predicament that will have a severe financial implications on the working of the BMC as the property tax is the 2nd largest revenue source to the Corporation.

Please find attached herewith all previous correspondence which is self-explanatory.

I request you to kindly look into the matter urgently and resolve the long pending issue to its logical end as per the decision and order of the Hon'ble High Court and Supreme Court.

Thanking you,

Asif Zakaria

c.c. **Shri. P. Velrasu, Additional Municipal Commissioner, Projects**
Shri. Sunil Dhamane, Jt Mun. Commissioner, 6th Floor
The Assessor & Collector, Assessment & Collection Department, BMC

**IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION**

Review Petition (Civil) No 298 of 2023
in
Civil Appeal No 8241 of 2022

Property Owner's Association and Ors

...Petitioner(s)

Versus

State of Maharashtra and Ors

...Respondent(s)

WITH

Review Petition (Civil) No **of 2023
(D No 415 of 2023)
in
Civil Appeal No 8239 of 2022**

O R D E R

- 1 Application for listing the review petition in open Court is rejected.
- 2 Delay condoned.
- 3 Having perused the review petitions, there is no error apparent on the face of the record. No case for review under Order XLVII Rule 1 of the Supreme Court Rules 2013. The review petitions are, therefore, dismissed.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

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Sanjay Kumar
Date: 2023.03.28
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.....J.
[Ajay Rastogi]

**New Delhi;
March 14, 2023**

-S-

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

R.P.(C) No. 298/2023 in C.A. No. 8241/2022

PROPERTY OWNER'S ASSOCIATION & ORS.

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

(FOR ADMISSION)

WITH

Diary No(s). 415/2023 (III)

(WITH IA No. 1126/2023 - APPLICATION FOR LISTING REVIEW PETITION IN
OPEN COURT, IA No. 37768/2023 - CONDONATION OF DELAY IN FILING
REVIEW PETITION, IA No. 1128/2023 - STAY APPLICATION)

Date : 14-03-2023 These petitions were circulated today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE AJAY RASTOGI

By Circulation

UPON perusing papers the Court made the following
O R D E R

- 1 Application for listing the review petition in open Court is rejected.
- 2 Delay condoned.
- 3 The review petitions are dismissed in terms of the signed order.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)