IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2422 OF 2004

The Municipal Corporation of the City of Pune
a body corporate having its office
at Shivajinagar, Pune – 411 005 ..Petitioner

Versus

M/s. Hi-Q Electronics,
a registered partnership firm
having its office at 31, Electronic
Estate, Pune-9, Through its partner:-
Shri. Atul Krishnaji Thakar
Age-44 years, Occ: Business
R/at Indrayani, 7 Vrindavan Society,
Sahakar Nagar, Pune – 9. ..Respondent

SNEHA NITIN CHAVAN

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Mr. Abhijit Kulkarni a/w Mr. Abhishek Roy and Ms. Sweta Shah for the Petitioner/Municipal Corporation.
None for Respondent.

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CORAM : M.M. SATHAYE, J.

RESERVED ON : 29th APRIL 2026
PRONOUNCED ON : 09th JULY 2026.

JUDGMENT :

1. By this petition under Articles 226 and 227 of the Constitution of India, the Petitioner / Municipal Corporation is challenging the Judgment and Order dated 23.04.2002 passed by the IXth Additional District Judge, Pune in Civil Appeal No. 346 of 1996. By the said impugned Order, the appeal filed by the Petitioner / Municipal

Corporation is dismissed, confirming the Judgment and Order dated 31.03.1990 passed by Principal Judge of Small Causes Court, Pune in Municipal Appeal No. 46 of 1989 by which the assessment made and bills issued by Petitioner/Municipal Corporation was set aside and direction was given to refund excess tax collected, if any.

2. Brief background of the matter is as under:

2.1. The Respondent is the owner of Plot No. 31. He had constructed an industrial shed ad-measuring about 1200 sq. ft in or about 1981. In the said year, the Petitioner/Municipal Corporation fixed rateable value ('RV' for short) of the said shed at Rs.3,800/-.

2.2. Thereafter, in or about 1985, the Respondent constructed first and second floor on the existing ground floor, each admeasuring about 1200 sq. ft.

2.3. The Petitioner/Municipal Corporation sent Special Notice dated 08.03.1986 to Respondent proposing rateable value at Rs. 53,350/-.

2.4. The Respondent by its Advocate's reply objected to the proposed rateable value, contending that the Corporation must assess RV of the newly constructed portion only and cannot revise the total RV. It was contented that the proposed RV is in excess.

2.5. On 11.07.1986, after hearing the representative of Respondent, rateable value was reduced and fixed to Rs.28,600/- by the Assessor, PMC Tax Assessment and Tax Collection Office and it was made applicable with effect from 01.02.1986.

2.6. The Respondent challenged the said assessment by filing Municipal Appeal No. 46 of 1989 under Section 406 of Bombay Provincial Municipal Corporations Act, 1949 ('BPMC Act' for short), in the Small Causes Court, Pune.

2.7. Learned Principal Judge of the Small Causes Court, who heard and tried the said appeal, was pleased to allow it, thereby setting aside the assessment and bill issued by Petitioner, fixing RV at Rs.11,400/-. The Petitioner/Municipal Corporation was directed to assess the property at said rate and it was directed that excess tax collected, if any, be refunded.

2.8. The Petitioner/Municipal Corporation filed Civil Appeal No. 346 of 1996 in the District Court at Pune under Section 411 of BPMC Act.

2.9. By the impugned Judgment and order dated 23.04.2002, the said appeal is dismissed.

2.10 In these circumstances, the Petitioner/Municipal Corporation filed this writ petition. The petition was admitted on 25.01.2005. The Respondent was directed to keep paying the tax at the rate fixed by the District Court. The order of refund was stayed, if not already refunded. Notice of the petition was duly served upon Respondent.

2.11 When the petition was listed for final hearing, after a long time in November 2025, fresh notice was issued to Respondent calling upon it to remain present. This notice was also duly served on the Respondent on 29.12.2025.

SUBMISSIONS

3. Learned counsel Mr. Kulkarni appearing for the Petitioner/Municipal Corporation submitted as under.

3.1. That hearing has taken place on 11.07.1986 on the objections taken by Respondent and proposed assessment is already reduced from Rs.53,350/- to Rs.28,600/- and therefore, it could not have been reduced further by the Court.

3.2. That when special notice was issued under BPMC Act, proposing to increase rateable value, the burden was on the Respondent/assessee, at the time of hearing, to lead evidence to establish that proposed rateable value is high. That this burden is wrongly cast on the Petitioner. Respondent has failed to produce requisite documents or evidence about cost of construction etc. and therefore the Court was not justified to place the burden upon Petitioner about rateable value fixed.

3.3 That the method adopted by the Courts below of comparing the Respondent's construction with nearby structure is not proper. Geographical proximity does not warrant identical rateable value in absence of relevant proof.

3.4. That the concerned property of the Respondent is situated in Survey No. 44, Parvati, Pune in M/s Electronic Co-operative Estate Ltd. That in this estate, various plots and structures are present including that of Respondent. That in identical situation in same survey number, petitions have been allowed in case of Unit No. 41

belonging to M/s. Deval Electroplators and Unit No. 35 of M/s. Paramount Electrical and Unit No. 18 of ELF filament Industries Private Limited. Therefore, the case of the Petitioner/Municipal Corporation is directly supported and covered by decisions in writ petitions which are relied upon. He relied on following judgments in support of his case.

i) Pune Municipal Corporation and ors. Vs Smt. Vimal Govind Joshi, (Bombay High Court order in Civil Revision Application No. 25 of 2009 dated 29.04.2015).

ii) Pune Municipal Corporation Vs. M/s Deval Electroplators, (Bombay High Court order in Writ Petition No. 1765 of 1996 dated 08.03.2024).

iii) Municipal Corporation of City of Pune Vs. M/s E.L.F. Filament Industries Pvt. Ltd. (Bombay High Court order in Writ Petition No. 6151 of 1999 dated 28.02.2025).

iv) Municipal Corporation of City of Pune and Ors. Vs. M/s M.M. Nahar (Bombay High Court order in Writ Petition No. 2301 of 2009 dated 17.02.2023).

v) Pune Municipal Corporation Vs. Dhanraj Tarachand Sankala and Sons, 2013 (2) Mh.L.J. 407 dated 19.12.2012.

vi) Municipal Corporation of City of Pune Vs. M/s. Paramount Electrical and Mechanical Industries (Bombay High Court order in Writ Petition No. 1335 of 1999 dated 26.02.2026).

vii) Pune Municipal Corporation and Anr. Vs. Shri. Jaybhagwan Ramchandra Gupta, (Bombay High Court order in Writ Petition No. 2300 of 2004 dated 09.04.2026).

viii) Pune Municipal Corporation Vs. The Indian Seamless Metal Tube Ltd., (Writ Petition No. 5920 of 2006 dated 12.02.2026).

4. Despite service, nobody appeared for Respondent. No reply is filed. As such the petition is heard without any assistance from the Respondent's side.

REASONS AND CONCLUSION

5. I have considered the submissions and perused the record.

6. The judgments relied upon by the Petitioner/Municipal Corporation in **M/s. Deval Electroplators (Supra), ELF Filaments Industries (Supra)** and **Paramount Electrical (Supra)**, are in fact arising out of same co-operative estate and in respect of same Survey No. 44, on which the property of the Respondent is situated. In fact the notice-reply issued by the Respondent through its Advocate M/s. Peshave and Associates is also common for Respondent and aforesaid companies.

7. It is necessary to take a look at the law that has evolved in this subject, which can be seen from various judgments relied upon by the Petitioner/Municipal Corporation.

8. In **PMC v/s. Dhanraj Tarachand (Supra)**, learned Single Judge of this Court has held that merely because two properties are adjacent to each other, their assessment rate need not be same. On such finding, this Court had remanded the case for reconsideration.

9. In **PMC v/s Vimal Joshi (Supra)**, learned Single Judge of this Court has held that the onus is on the Assessee (Respondent) to adduce evidence that rateable value is high, at the time of hearing before the Assessor. In this case, the impugned order was modified by this Court.

10. In **PMC v/s M. M. Nahar (Supra)**, the view taken in **Dhanraj Tarachand (supra)** was followed and it was held that while assessing new structure, what has to be considered is the construction cost and what will be the standard rent expected if the structure was let by owners/landlord. It was held that the rateable value of new structure cannot be fixed on the basis of old assessment.

11. In **PMC v/s. M/s. Deval Electroplators Ltd. (Supra)**, learned Single Judge of this Court has considered Sections 406 and 129 of BPMC Act and various judgments of the Hon'ble Supreme Court in detail and held that an appeal challenging rateable value for particular year is maintainable in absence of challenge to the same rateable value in the earlier assessment year. It is further held that if the rateable value is fixed on location of the property and quality of material used for construction, the same is justified and the assessing authority is not equipped with machinery that would enable it to collect evidence and it is not expected that the authority would go out searching and collecting evidence to bring on record material which would enable the assessing authority to apply the principle of parity. It was also held that the method of modifying rateable value by the Court on the basis of 'assessment of nearby property' comparing it with construction of earlier years, without recording

reasons and findings about constructions being comparable, is not correct. It is also held that doctrine of *res judicata* does not apply to the question of fact in a proceeding for assessment and assessment in one year is not binding on assessment in another year, and since the question falls for adjudication every year, merely because the an assessee paid the tax bills on rateable value fixed for 3 years, it would not preclude the assessee from challenging the rateable value fixed. In this case, the learned Single Judge has set aside the impugned order.

12. In **PMC v/s. ELF Filament (Supra)** also, this Court has held that geographical proximity does not warrant identical rateable value, in absence of relevant proof.

13. In **PMC v/s. Indian Seamless Metal Tube (Supra)**, this Court relying upon **PMC v/s. Vimal Joshi (Supra)** has reiterated that the person who questions the assessment must point out where the procedure was violated or how such violation has caused prejudice.

14. In **PMC v/s. M/s. Paramount Electrical (Supra)**, learned Single Judge of this Court has followed law in **PMC v/s. Vimal Joshi (Supra)** and **PMC v/s. Deval Electroplators (Supra)**.

15. In **PMC v/s Jaybhagwan Ramchandra Gupta (Supra),** learned Single Judge of this Court has considered **PMC v/s. Vimal Joshi (Supra)** and observed that it is for the Assessee to lead the appropriate evidence and discharge the burden proving that 'rateable value determined by the Municipal Corporation' is not proper.

16. I have perused the impugned Judgment and Order of the District Court and order of the Small Causes Court in the light of law discussed above.

17. Perusal of the impugned order shows that the Appellate Court was conscious of the fact that Petitioner/Municipal Corporation has worked out the assessment value based on percentage of construction cost and necessary deduction was given. It is also seen that after hearing the representative of the Respondent, the proposed assessment was already reduced substantially from Rs.53,350/- to Rs.28,600/-.

18. Firstly, impugned order clearly indicates that learned Judge has placed the burden of proving justification for particular assessment upon Petitioner/Municipal Corporation. This is contrary to the law as explained above. It is settled position that the burden is on the person who is disputing the assessment, which in the present case, is Respondent/Assessee. The partner of Respondent-AW1- has only stated in his evidence about alleged construction cost, however has not produced any document or other evidence showing construction cost, amenities etc. and therefore, the burden of proving contrary to proposed rateable value is not discharged by Respondent/Assessee.

19. Secondly, it is also seen from the impugned order that the learned Judge has confirmed the reduction in rateable value by the Trial Court on the basis of rateable value fixed for structures on other plots in the vicinity, without any discussion or reasons as to how the nearby structures were comparable to the structure of

Respondent/Assessee.

20. Therefore, on above two counts, the impugned judgment is found to be contrary to law and therefore perverse, in the facts of this case. Hence, the same cannot be sustained.

21. In the aforesaid facts and circumstances and for reasons indicated above, the petition deserves to be allowed. The petition therefore succeeds.

22. Accordingly, the impugned Judgment and order dated 23.04.2002 is quashed and set aside. Regular Civil Appeal No. 346 of 1996 filed by Petitioner/Municipal Corporation, is allowed. Judgment and order dated 31.03.1990 is quashed and set aside. Municipal Appeal No. 46 of 1989 is dismissed. No order as to costs.

23. **Rule is made absolute and Writ Petition is disposed of in the above terms. No order as to costs.**

24. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)