

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT APPEAL NO. 350 OF 2015

M/s Bagadiya Brothers Pvt. Ltd., through its Authorized Signatory,
Ground Floor, Bagadiya Mansion, Jawahar Nagar, Raipur (C.G.)

... Appellant

Versus

1. The Commissioner, Central Excise and Customs, Central Excise Building, Tikrapara, Raipur, Chhattisgarh
2. General Manager, Ministry of Railway, South Eastern Railways, Kolkata, West Bengal.

... Respondents

For Appellant	:	Mr. Ramakant Mishra, Advocate.
For Respondent no.1	:	Mr. Maneesh Sharma, Advocate.
For Respondent no.2.	:	Mr. Abhishek Sinha, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per NAVIN SINHA, C.J.

15/07/2015

1. Heard learned Counsel for the Appellant and the Respondents.
2. The present Appeal arises from order dated 10.4.2015 dismissing Writ Petition (T) no. 53 of 2015 as not maintainable against the show cause notice more particularly when a detailed reply on merits had already been filed.
3. Learned Counsel for the Appellant submits that even if the show cause notice had been issued by a competent authority, it was completely erroneous and there was no service tax liability on the Appellant with regard to the wagons in question. The alternative submission is that since a reply to the show cause notice has already

been filed the authorities may be directed to dispose it within a specific time to be indicated by the Court.

4. Learned Counsel for the Respondents have invited our attention to paragraph 7 of the order under Appeal that the cause itself was shown one and a half year after the notice was issued.

5. We have considered the submissions on behalf of the parties.

6. The Appellant does not deny the jurisdiction of the authority to issue the show cause notice. The pleadings in the writ application acknowledge cause having been shown. On perusal of the cause shown, we find it to be extremely detailed raising issues which are debatable and may be correct or may not be correct. That is an aspect to be considered by the authority which has issued the show cause notice.

7. We therefore find no reason to interfere with the order under Appeal.

8. The Appellant having shown cause and the authority already been directed to dispose the same in accordance with law, considering the conduct of the Appellant himself in having belatedly shown cause, even if no time has been indicated by the learned Single Judge, Respondent no.1 nonetheless is required to take a final decision in accordance with law within a reasonable time.

9. The Appeal is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge