IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7224 OF 2015
WITH
WRIT PETITION NO.7227 OF 2015
WITH
WRIT PETITION NO.7228 OF 2015
WITH
WRIT PETITION NO.7229 OF 2015
WITH
WRIT PETITION NO.9295 OF 2015

The Commissioner of Sales Tax
U. T. Administration of Daman and Diu ..Petitioner

Vs.

M/s. Shreeji Plasticizer ..Respondent

Mr. Pradeep S. Jetly i/b Mr. S. S. Deshmukh,for the Petitioner.
Mr. Vinayak Patkar a/w Mr. Ishaan Patkar i/b Ms. Manjiri Parasnis,for the Respondent.

CORAM :- **S.C. DHARMADHIKARI & B.P. COLABAWALLA, JJ.**
DATE :- **DECEMBER 15, 2015.**

P. C.:

The Petitioner is the Commissioner of Sales Tax-Union Territory of Daman and Diu.

2 The Writ Petitions under Article 226 of the Constitution of India are filed seeking to quash the order dated 21st August, 2014 passed in Miscellaneous Application Nos. 2 of 2013, 4 of 2013, 5 of 2013 and 6 of 2013 and 3 of 2013. The Administrative Tribunal, Diu has not condoned the delay of 448 days which occurred in filing of the Reference applications.

3 Initially, the Petitioner had approached this Court by filing Writ Petition No.6360 of 2012. When that Writ Petition was disposed off by order dated 7th December, 2012, according to the Petitioner, this Court permitted initiation of appropriate proceedings.

4 The Department, after seeking clarification from the advocate, filed Reference Applications in September 2012. The

action to initiate the reference proceedings was approved by the Commissioner of Value Added Tax, at Diu on 26th December, 2012. The Department sent necessary papers and proceedings to the Government Advocate at Diu to prepare the requisite applications, on 28th March, 2013. However, the Government Advocate was unwell and the Reference Applications could not be drafted and filed until 31st July, 2013. Thereafter, the draft underwent some changes and finally it was approved by the Commissioner at Daman. It is in these circumstances the applications for condonation of delay were filed. On that, the Tribunal found that the delay of 448 days is not explained properly and hence the applications seeking the condonation of delay in filing the Reference Applications were dismissed.

5 The argument is that larger public interest has suffered because of this technical view taken on applications requesting the condonation of delay. The Tribunal could have taken note of the usual events in a Government Department. The delay occurs because of the administrative difficulties and when the file is

required to pass through several officers.

6 When these Petitions were placed before us on the earlier occasion, we extensively heard Mr. Jetly appearing on behalf of the Petitioner and Mr. Patkar appearing on behalf of the Respondent.

7 We have carefully perused the order under challenge. The Commissioner who has filed these Petitions earlier, sought time to consider as to whether the deficiencies and difficulties in the application seeking condonation of delay can be removed and by making a fresh application. However, no instructions were given to Mr. Jetly to that effect though the matter was adjourned repeatedly.

8 The Tribunal, in the impugned order found that the delay is of 448 days. A liberal approach will not enable it to condone such a erroneous delay. There is no explanation forthcoming. A vague statement or a general remark of administrative difficulties was not enough. The version orally canvassed was not supported by any affidavit. The reasons that are

assigned from paragraphs 9 to 12 in the impugned order do not suffer from any error apparent on the face of the record or perversity warranting our interference in the writ jurisdiction.

9 The Supreme Court in the case of Office of the Chief Post Master General v/s Living Media India Ltd(2012(277)E. L. T. 289(SC) has held that the Government bodies are required to be informed that unless they have reasonable and acceptable reasons for delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The Supreme Court held that the Government Departments are under a special obligation to ensure that they perform their duties with diligence and commitment. The most important observation is that condonation of delay is an exception and should not be used as anticipated benefit for Government Departments. The Hon'ble Supreme Court held that merely because it is the Government who seeks condonation of delay, it does not enable it to insist it on some special treatment. It is no

different than other litigants.

10 It is in the light of above principles and which have been rightly applied in the given facts and circumstances that we are of the view that the impugned orders require no interference in our writ jurisdiction. The Writ Petitions are devoid of merits and are dismissed.

(B. P. COLABAWALLA, J.) **(S. C. DHARMADHIKARI, J.)**