

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

WRIT PETITION NO. 9787 OF 2014

M/s. Krishna Chemicals

... Petitioner.

V/s.

Union of India & Others.

... Respondents.

Mr. Brijesh Pathak, Advocate for the Petitioner.

Mr. Vijay Kantharia with Ms. Anamika Malhotra, Advocate for the Respondents.

**CORAM : S.C.DHARMADHIKARI &
B.P. COLABAWALLA, JJ.**

DATE : 24th AUGUST, 2015

P.C. :

1 By this writ petition under Article 226 of the Constitution of India a communication at Annexure 'A' is challenged. The date of the communication is 10th May, 2011 and it is dispatched to the Petitioner by registered post with acknowledgment due. It is not disputed by the Petitioner that he was in receipt of this communication else he would not have addressed a letter of 28th November, 2011, which is at Annexure 'B' at page 31 to the petition.

2 The Petitioner repeated this request on 3rd January, 2012 by the Annexure 'C' at page 33 to the petition.

3 Despite all this, the Petitioner approaches this court and challenges this order by the present petition on 16th September, 2014.

4 Pertinently, the Petitioner relied upon an order passed by this court in a writ petition bearing writ petition no. 4230 of 2011 decided on 1st July, 2011 (Century Textile and Industries Limited vs. The Union of India & Ors.). Prior to this letter, when the office of the Superintendent of Customs (Preventive) had reminded the Petitioner on 27th September, 2013 and 2nd November, 2013 that it can proceed on the footing that the communication at Annexure -'A' dated 10th May, 2011 is an order of the Competent Authority and, therefore appealable; neither of the remedies, namely, filing an appeal or approaching this court promptly have been resorted to.

5 There is absolutely no explanation as to why the Petitioner did not deem it fit and proper to file a writ petition in this court till 16th September, 2014 when the demand is made as far back as on 10th May, 2011. There is no averment in the writ petition by which we can conclude that the Petitioner was availing of any remedy or has, therefore, a

genuine or bona-fide reason for this delay. We do not find any letter or any communication after 3rd January 2012 and particularly till 18th March, 2014 by the Petitioner would assist it. If the Petitioner imported the product during 2006-2007 as is evident from paras 4 and 5 of the Petition, the finalization of the assessment is of 10th May 2011 (see para 11) then, reliance on the correspondence would not mean a old and stale matter can be considered. If everything is finalized in 2011 itself, then the Petitioner's belated request cannot be considered by us. The writ petition, therefore, cannot be entertained.

6 The writ petition is barred by delay and laches. It is dismissed accordingly.

(B.P. COLABAWALLA, J.)

(S.C.DHARMADHIKARI,J.)

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