

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL WRIT PETITION NO. 5 OF 2016**

Central Excise, Through: Assistant
Commissioner of Customs and
Central Excise, Custom House, Patto,
Panaji, Goa 403 001.

.... Petitioner

Versus

1. M/s Jet Times India Pvt. Ltd.,
Plot No. 19 and 20, Tivim
Industrial Estate, Karaswada,
Mapusa, Goa – 403 502.

2. Shri S.I. Patel, 64, Swastik
Society, N.S. Road No. 4,
J.V.P.D.S. Vile Parle (W),
Mumbai – 400 056.

3. State, Through Public
Prosecutor, High Court, Panaji,
Goa – 403 001.

.... Respondents

Mr. Carlos Alvares Ferreira, Advocate for the Petitioner.

Mr. Sarvesh Kamat, Advocate for Respondent Nos. 1 and 2.

Mr. S.R. Rivankar, Public Prosecutor for Respondent No. 3.

CORAM:- S.B. SHUKRE, J.

DATE:- 29th FEBRUARY, 2016.

ORAL JUDGMENT:

Heard. Rule. Rule made returnable forthwith. Heard
finally by consent.

2. It is true that there is a delay of about 10 months, which has not been explained in a specific manner by giving dates or months as to when the petitioner made efforts to file the revision application. But, upon overall consideration of the reasons stated for condoning the delay, one gets an impression that there have been no malafides on the part of the petitioner. It also appears that the petitioner is a Government Department and therefore, some consideration needs to be given to the manner in which the Government Departments are known to be functioning. In such a case, what is important to be seen is whether there has been a gross negligence or deliberate delay on the part of the concerned officer and whether any injustice is going to be caused to the respondents. That does not appear to be so in this case. Besides, the impugned order itself shows that the respondents had made a submission that suitable order may be passed. Here also, learned Counsel for respondent nos. 1 and 2 submits that the main objection of these respondents is on the maintainability of the revisions application. He submits that respondent nos. 1 and 2 are also objecting to the contentions of the petitioner that these respondents had tried to delay the proceedings before the trial Court. These objections pertain to the maintainability of the revision application and

merits of the issues involved and not to the application filed for condonation of delay, as such. These objections can be kept open so that they can be decided on their own merits at appropriate time.

3. In the result, the Writ Petition deserves to be allowed. Writ Petition is allowed. Impugned order is quashed and set aside. Revision application be registered and disposed of in accordance with law. The objection of respondent no. 1 and 2 on maintainability and the submissions of the petitioner are kept open and shall be decided on their own merits, in accordance with law.

4. Rule is made absolute in these terms.

S. B. SHUKRE, J.

EV