

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9847 OF 2015

Rochem Separation Systems (India) Pvt Ltd ..Petitioner

Vs.

The Union of India and Others ..Respondents

Mr. Prakash Shah a/w Mr. Jas Sanghavi i/b PDS Legal, for the
Petitioner.

Mr. Swapnil Bangur a/w Mr. Vipul A Bajpayee, for the Respondent
Nos. 2, 3 and 4.

CORAM :- S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.
DATE :- NOVEMBER 21, 2016.

P. C.:

An application seeking refund filed by the Petitioner
has been rejected.

2 The only contention raised before us is that prior to
such rejection, the Petitioner was not granted any opportunity of
personal hearing. It is complained that the refund application has
been rejected essentially on the ground that it is barred by

limitation.

3 Our attention is invited by Mr. Shah appearing for the
Petitioner to the grounds seeking refund and secondly to a
clarification given in writing by the Petitioner that the said
application is within time. It is urged that the refund cannot be
said to be barred by limitation.

4 We are of the clear view that if the authority was
inclined to reject the Petitioner's application on the ground of
limitation and even on merits, it should have in the peculiar facts
and circumstances granted an opportunity of oral hearing to the
Petitioner. This was necessary because the Petitioner was not
admitting the stand of the Respondent that the refund application
was not maintainable. Interest of justice and fairness required
that the Petitioner was granted such opportunity and thereafter
the application is disposed off.

5 On this short ground alone, we set aside the impugned
order. We restore the refund application to the file of the Deputy
Commissioner Central Excise, Vasai Division, Thane-II

Commissionerate for a decision afresh on merits and in accordance with law.

6 The Authority shall grant an opportunity of personal hearing to the Petitioner. The Petitioner shall appear before the said Deputy Commissioner on 2nd December, 2016 and the Deputy Commissioner could then decide the application in accordance with law.

7 In the event the Petitioner not appearing before him on the said date would result in all consequences and thereafter the Petitioner cannot avail of opportunity of personal hearing.

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