Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6941 OF 2014

Britt Worldwide India Private Limited ...Petitioners
Versus
The Union of India, through Secretary, Ministry of Finance Department of Revenue ...Respondents

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Mr. Bhrat Raichandani, with Mr. Mahesh Raichandani, i/b Mr. Vaibhav P. Patankar, for the Petitioners.
Mr. Vijay Kantharia, with Ms. Anamika Malhotra, for the Respondents.

CORAM: S.C. DHARMADHIKARI & G.S. PATEL, JJ.
DATED: 11th January 2016

PC:-

1. On this Petition challenging the order dated 23rd January 2014, Mr. Raichandani raised only one contention and that is that the impugned order recites that the notice to show cause was issued to the Petitioner and that show cause notice dated 12th October 2010 was taken up for adjudication. After the personal hearing was over, an order ought to have been passed within a reasonable time. However, the impugned order has been passed 17 months after the personal hearing was over. This unreasonable and unexplained delay itself vitiates the conclusion reached in the impugned order.

2. Upon such a contention being raised and specifically in the Petition so also earlier, we granted time to Mr. Kantharia appearing for the Respondents to take instructions. Mr. Kantharia has placed before us an Affidavit of one Mr. R. Sekhar, holding charge as the Principal Commissioner of Service Tax-VII, Mumbai. Upon perusal of the records, he has, in his Affidavit, explained as to how the delay occurred. It is not disputed by him that there is indeed a long delay in passing the impugned order after the conclusion of personal hearing. The administrative and other difficulties have been pointed out. Mr. Kantharia states that he has personally spoken to the Commissioner and who has assured him and thereafter to convey the Court that all attempts would be made to dispose of the pending cases expeditiously.

3. In view of this affidavit and the stand taken by the Commissioner, we set aside the impugned order only on the ground of delay and which is long, unreasonable and unexplained in passing the adjudication order.

4. The impugned order dated 23rd January 2014 is, therefore, quashed and set aside. The show cause notice shall be adjudicated afresh and on appearance of the Petitioner a fresh order would be passed by the Adjudicating Authority within a period of 30 days from the date of conclusion of personal hearing.

5. The Petitioner shall appear before the Adjudicating Authority at 10.30 a.m. on 21st January 2016. We direct the Adjudicating Authority to pass a fresh order uninfluenced by the earlier conclusion.

6. The Writ Petition is allowed in these terms with no order as to costs.

(G. S. PATEL, J.) **(S. C. DHARMADHIKARI, J.)**