

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

WRIT PETITION NO. 3775 OF 2016

The State of Maharashtra	}	Petitioner
versus		
M/s. Sun Exports Corporation	}	Respondent

Mr. V. A. Sonpal - Special Counsel for the petitioner.

Ms. Nikita Badheka for the respondent.

**CORAM :- S. C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, JJ.**

DATED :- JUNE 28, 2016

P.C. :-

We have heard Mr. Sonpal appearing for the petitioner and Ms. Badheka appearing for the respondent. Mr. Sonpal relied upon para 8A of the writ petition (page 13) to convince us that this is sufficient explanation for the delay in institution of this writ petition.

2) We are unable to agree with him. The writ petition is filed on 10th September, 2014 to challenge an order dated 30th March, 2010 of the Maharashtra Sales Tax Tribunal, Mumbai in Rectification Application No. 151 of 2009. That order was passed and thereafter a reference application was moved, which also came to be rejected on 20th September, 2011. The State

Government was moved in order to seek some information and advice as to what steps should be taken and from the explanation, it is stated that the issue was referred to the State Government on 17th December, 2011. The State Government took its own time and sat over the files till 28th January, 2014.

3) We do not think that for such lapses and which are stated to be administrative in nature can a special treatment be given to the State as a litigant. It is now well settled that the State is not a special litigant and not only section 5 of the Limitation Act, 1963, but principles analogous thereto would not enable us to condone the delay only because the movement of files took time. We do not approve of such an explanation.

4) The writ petition is dismissed on the ground of delay. We clarify that once we dismiss the writ petition like this, we do not express any opinion on the merits of the controversy.

(DR. SHALINI PHANSALKAR-JOSHI, J.) (S.C.DHARMADHIKARI, J.)