

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.959 OF 2014

M/s Audio Plus	...	Petitioner
Versus		
Mumbai Municipal Corporation		
And Others	...	Respondents

.....

Mr. Sanjay R. Haritwal for the Petitioner.
Mr. H.C. Pimple for the Respondents.

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**CORAM : M.S. SANKLECHA &
S.C.GUPTE, JJ**

DATE : 13 OCTOBER 2016

P.C. :

. At the request of counsel the petition is being disposed of finally at the stage of admission.

2 This petition under Article 226 of the Constitution of India, challenges an order dated 17 August 2012 passed by the Assessor & Collector and also consequent order dated 8 October 2012 passed by the Deputy Assessor & Collector (Octroi Refund). The impugned orders rejected the Petitioner's case for refund of octroi paid by it to the Mumbai Municipal Corporation (Corporation). The refund was claimed by the Petitioner in respect of octroi paid on purchase of goods from a unit in Santacruz Export Processing Zone (SEEPZ), which were thereafter exported out of Mumbai.

3 It is grievance of the Petitioner that the impugned orders were passed without following due process of law in as much as without granting it any personal hearing and/ or without issuing any show cause notice.

4 Mr. Pimple, learned Counsel appearing for the Respondent-Corporation, for the purpose of the petition without accepting the claim of the Petitioner, on instructions of Mr. Ashok Palav, Assistant Assessor & Collector (Refund), states that a show cause notice would be reissued and a fresh order would be passed after hearing the Petitioner in respect of levy and refund of octroi in respect of the goods purchased from an unit in SEEPZ and said to be exported out of Mumbai. Mr. Pimple, learned Counsel on instructions states that a show cause notice would be reissued within three weeks from today. Mr. Haritwal, for the Petitioner states that it would file its response, if any, within further period of two weeks from receipt of the show cause notice. The Respondents would dispose of the show cause notice in accordance with principles of natural justice i.e. personal hearing and an order duly supported with reasons. Mr. Pimple, learned Counsel states that a show cause notice will be disposed of within a period of nine weeks after issuing the same. Needless to state the Petitioner will co-operate in the early disposal of the show cause notice and will not seek undue adjournments.

5 In the above view, the impugned orders dated 17 August 2012 passed by the Assessor & Collector and also consequent order dated 8 October 2012 passed by the Deputy Assessor & Collector (Octroi Refund), respectively are quashed and set aside. The Petitioner's claim for refund of

octroi would be disposed of by passing a final order after following the principles of natural justice within 12 weeks from today.

6 The petition is disposed of accordingly in above terms. No order as to costs.

(S.C. GUPTE, J.)

(M.S. SANKLECHA, J.)