

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1386 OF 2013

(M/s. S.F. Patel vs. The Commissioner, Central Excise, Customs and Service Tax)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri A.P. Chaware, Advocate for petitioner.
Shri Deshpande, Advocate for respondent.

CORAM : B.P. DHARMADHIKARI AND
KUM. I.K. JAIN, JJ.

DATED : JUNE 7, 2016

Heard Adv. Chaware for petitioner and
Adv. Deshpande for respondent.

After hearing, we find that challenge is to
the show cause notice dated 3/10/2012.

According to respondent, petitioner is an
unregistered manufacturer of tobacco, which has
evaded excise duty in excess of Rs.18 crores.
Hence, during search, machines used for packaging
of tobacco to be marketed have been seized and a
show cause notice has been issued.

After issuance of that show cause notice,
petitioner has on 17/12/2012 raised a preliminary
objection. It has attempted to demonstrate that
machines seized were not in a working condition and,
therefore, did not form part of alleged manufacturing

process. The objection has been overruled on 21/2/2013.

However, during hearing, Adv. Chaware for petitioner submits that if all the contentions are kept open and the objection as also defence of petitioner is considered in a time bound manner, the petitioner has no objection to file reply on merits before respondent.

Adv. Deshpande for respondent submits that challenge to the show cause notice is premature. The process of adjudication has not yet commenced.

In view of these submissions, we direct petitioner to raise all defences/contentions as are open to it in law before respondent by filing suitable reply to the show cause notice. The reply be filed within six weeks from today. If reply is accordingly filed, respondent shall consider the same in accordance with law within next three months. With these directions, keeping all rival contentions open, we dispose of the petition. No costs.

JUDGE

JUDGE

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