

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

WRIT PETITION NO. 6425 OF 2017

M/s. Nico Extrusion Ltd	...	Petitioner
V/s.		
The Union of India and Others	...	Respondents

- Mr. Bharat Raichandani i/b UBR Legal for the Petitioner.

**CORAM : S.V. GANGAPURWALA AND
G.S. KULKARNI, JJ.**

DATE : 19th JUNE, 2017.

PER COURT :

1] The Petitioner assails the show cause notice dated 31.03.2008.

2] The learned counsel submits that, the person who has issued the notice does not have the jurisdiction, the jurisdiction does not vest with the said authority. The learned counsel relies on the judgment of the Delhi High Court in the case of *M/s. Mangli Impex Vs. Union of India reported in 2016 (335) ELT 605* so also of the Apex Court in a case of *Commissioner of Customs Vs. Sayed Ali reported in 2011 (265) ELT 17*. The learned counsel further

submits that, in respect of similar issues, this Court has admitted Writ Petition No. 2338 of 2016.

3] The learned counsel submits that, the Petitioner even had made a request for allowing the Petitioner to cross examine the witnesses, no orders were passed on the same and again a notice has been issued for hearing. According to the learned counsel, as the notice is issued without jurisdiction, this Court can entertain the Writ Petition.

4] Certainly, this Court would be loath to exercise its jurisdiction under Article 226 of the Constitution of India raising challenge to the show cause notice ofcourse with certain exceptions.

5] We cannot *fathom* the argument of the Petitioner. The show cause notice is issued on 31.03.2008 and the same is assail in the present Writ Petition in the year 2017. More particularly, when a fresh notice of hearing was issued to the Petitioner dated 04.05.2017. The Petitioner could have assailed the show cause notice dated 31.03.2008 immediately, having not done so, this Court certainly will not exercise its writ jurisdiction in favour of such a litigant, who does not choose to assail the show cause notice for a

period of nine years. On this count itself, we refrain from exercising our writ jurisdiction.

6] Needless to state that, the Petitioner can raise the objection of the jurisdiction before the authority which certainly the authority will be required to decide. The authority can decide upon its own jurisdiction, there is no bar for the same.

7] With these observations, the Writ Petition stands disposed of. No costs.

(G.S. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)