

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

WRIT PETITION NO. 7305 OF 2018

Oerlikon Friction Systems (India)
Ltd, Pune

.. Petitioner

v/s.

Union of India & Anr.

..Respondents

Mr. R.K. Tomar for the petitioner

Mr. Sham Walve a/w Ms. Maya Majumdar for the respondents

**CORAM : M.S. SANKLECHA &
RIYAZ I. CHAGLA, J.J.**

DATED : 4th OCTOBER, 2018.

P.C.

1. This petition under Article 226 of the Constitution of India seeks a direction to the respondent no.2 i.e. the Commissioner of CGST, Pune to keep in abeyance the show-cause notice dated 10th October, 2017 issued under the Central Excise Act, 1944 (the Act). This request is made on the ground that in the petitioner's own case an identical issue relating valuation of job work is pending before the Customs, Excise and Service Tax Appellate Tribunal at Chennai.

2. The prayer in this petition is rather unusual. We find no averment in the petition to the effect that an application was made to

Commissioner of CGST for adjourning the adjudication of the show-cause notice dated 10th October, 2017 and the result of such an application. Therefore, there has been no demand for justice from the Authority under the Act, before seeking a mandatory direction against them.

3. Be that as it may, in any case it is entirely for the Commissioner who has to adjudicate upon the show-cause notice dated 10th October, 2017 to decide whether or not to adjourn the adjudication of the show-cause notice till the decision is rendered in what the petitioner states is a similar / identical issue pending before the Tribunal at Chennai to that raised in the show-cause notice. This discretion has to be exercised by the adjudicating Authority taking into account all the facts which arise before him for adjudication in the show-cause notice and in the interest of over all justice. Thus, it is not for us in a writ jurisdiction to micro manage the manner in which the adjudication proceedings should be conducted by the quasi judicial authority, unless of course the conduct of the proceedings by a quasi judicial authority is completely arbitrary causing serious prejudice to the parties. This certainly is not a case which would require interference in exercise of our extraordinary jurisdiction under Article 226 of the Constitution of

India.

4. In the above view, petition is dismissed. No order as to costs.

(RIYAZ I. CHAGLA, J.)

(M.S. SANKLECHA, J.)