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**\*IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1281/2010  
SPICE MOBILES LTD. .... Petitioner  
Through : Adv. (appearance not given)

versus

THE UNION OF INDIA & ORS ..... Respondents  
Through : Ms. Aashima, Adv. for respondent  
no. 2

**CORAM:**  
**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**ORDER**  
**11.04.2018**

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1. This is a writ petition directed against the adjudication order bearing F.No. Audit Para No.41 of July-Oct. 98/ECA/CLA 966 dated 20.11.2009.
2. The record shows that the petitioner was apparently, issued the first show cause notice in 1998 followed by four show cause notices and deficiency letters. The record also shows that it has taken nearly 11 years from the date of issuance of the first show cause notice for the respondents to pass the adjudication order.
3. It is the petitioner's stand that the first show cause notice was never received by it and that in so far as the show cause notice dated 30.10.2009 is concerned, it was sent to the wrong address. It is also the contention of the petitioner that, though, 15 days were given for filing reply to the show cause notice, the date of hearing was fixed on 13.11.2009.
- 3.1 The show cause notice it appears was dispatched on 13.11.2009 which

was the date of hearing.

3.2 This fact is sought to be supported by the petitioner by relying upon the adjudication order, which is, dated 20.11.2009.

3.3 The petitioner's counsel has also drawn my attention to the fact that while show cause notice dated 30.10.2009 was sent to the wrong address, the adjudication order was sent to the then correct address.

3.4 According to the petitioner at the point of time, it was situate at D-4, Okhla, Phase-I, whereas, the show cause notice was sent to D-4, Okhla, Phase-2.

3.5 As a matter of fact, my attention was drawn to the earlier show cause notice dated 11.11.2003 where the same error had occurred, that is, it was sent to wrong address. It is the petitioner's case that show cause notice dated 11.11.2003 was in fact dispatched on 21.12.2003.

4. Having regard to the discrepancies in the show cause notice in my view, the adjudication order has got impacted, therefore, it was put to the learned counsel for the FTDO/respondent no.2 as to whether the FTDO/respondent no.2 would like to recall the adjudication order. Ms. Aashima, who is present in Court on behalf of FTDO/respondent no.2 submits that FTDO/respondent no.2 would recall the adjudication order and issue a fresh show cause notice to the petitioner.

4.1 The said statement is taken on record.

5. Accordingly, the writ petition is disposed of with the following directions:

- (i) adjudication order dated 20.11.2009 would stand recalled.
- (ii) the respondent will issue a fresh show cause notice to the petitioner at the address given in the memo of parties as contained in the

captioned writ petition.

(iii) The petitioner will give at least two weeks time to file reply. Upon filing reply, the Adjudicating Authority will grant a personal hearing to the petitioner via its authorised representative and thereafter pass a speaking order in the matter. A copy of the speaking order will be furnished to the petitioner.

6. In case, the petitioner is aggrieved by the order passed by the Adjudicating Authority, it will have liberty to assail the same in accordance with law.

7. Needless to say, it will be open to the petitioner to place all contentions in support of its case before the Adjudicating Authority.

**RAJIV SHAKDHER, J**

**APRIL 11, 2018**

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