

**16.2.2022**

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**WPA 1621 of 2022**

Shri Bimal Kumar Biswas, Proprietor of M/s. Biswas Enterprise

Vs

The Additional Director General, Directorate of Revenue Intelligence, Kolkata Zonal Unit & Ors.

Mr. Arijit Chakrabarti,  
Mr. Prabir Bera

... For the Petitioners.

Mr. Somnath Ganguli,  
Mr. Sukalpa Seal

... For the Customs Authorities  
Respondent No.2.

Mr. Kaushik Dey

... For the DRI.

Ms. Rama Ghosh Dastidar

... For the Respondent No.3.

In this writ petition, petitioner has challenged the impugned show-cause-notice dated 3rd December, 2017 as appears from prayers made in the writ petition and this writ petition has been filed on 28<sup>th</sup> January, 2022 i.e. after four years from the date of issuance of the impugned show-cause-notice without any cogent explanation for the inordinate delay in filing this writ petition. Though there is no limitation prescribed for invoking the Constitutional writ jurisdiction under Article 226 of the Constitution of India but it does not mean that any one can invoke the writ jurisdiction at any point of time as one wishes and there must be some cogent explanation for inordinate delay in invoking the Constitutional writ jurisdiction, which is totally absent in the matter. Petitioner wants

to revive its cause of action by a notice of hearing on the said application, which was issued on 7<sup>th</sup> January, 2022. Had the impugned show-cause-notice bad in law or without jurisdiction at the time of issuance of the impugned show-cause-notice and if at all petitioner was aggrieved by such notice he could have come before the writ court immediately after issuance of the impugned show-cause-notice. The conduct of the petitioner shows that immediately after issuance of the impugned show-cause-notice he sat over it and did not approach the writ court by taking the point of jurisdictional error or point of law if any against the impugned show-cause-notice which was issued in the year 2017 and instead the petitioner himself has chosen to give reply to the said show-cause-notice and has submitted to the jurisdiction of the respondent authority concerned. So it cannot be contended by the petitioner that the impugned show-cause-notice at the time of issuance in 2017 was without jurisdiction or bad in law in 2022. Petitioner relies on an unreported decision of Delhi High Court dated 12<sup>th</sup> April, 2021 in the case of Gopal Gupta vs. Principal Additional Director General, Directorate of Revenue Intelligence, New Delhi in WP(CRL) 821/2021. I have perused the aforesaid order of Delhi High Court, which is an interim order and not a final order apart from the fact

that it is not binding on this Court. It also appears from the said interim order of Delhi High Court that the impugned show-cause-notice was issued on 26<sup>th</sup> September, 2019 and the writ petition was filed in that case in early 2021. So, factually point of delay is different in that case from this case and in that case it could not be called an inordinate delay.

Considering the submission of the parties and in view of the discussion made above, I am not inclined to entertain this writ petition, being WPA 1621 of 2022 and, accordingly, the same is dismissed. However, dismissal of this writ petition will not prevent the petitioner to participate in the hearing to the impugned show-cause-notice, if he so wishes.

**( Md. Nizamuddin, J. )**