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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6043 OF 2022**

M/s. Sophisticated Marble & Granite Industries ... Petitioner
vs.
The Union of India & Ors. ... Respondents

Mr B.B.Tiwari with Ms Premlata Yadav for the Petitioner.
Ms Neeta Masurkar with Mr Siddharth Chandrashekhar for the Respondents.

**CORAM : NITIN JAMDAR AND
GAURI GODSE, JJ.**

DATE : 28 NOVEMBER 2022

P.C.:

Heard learned counsel for the parties. The Petitioner has sought to quash and set aside the show cause notice dated 25 January 2006 issued by the Deputy Commissioner of Customs, SIIB (Import), Nhava Sheva.

2. The ground is challenge to the issue of show cause notice is not on merits but on the ground that there has been inordinate delay in disposal of the proceedings pursuant to the issuance of the show cause notice.

3. Certain facts that emerge from the show cause notice dated 25 January 2006 are as follows. The Petitioner had imported one consignment of Yatch from Ajman, UAE under Invoice No. 2258 dated 10 November 2001 and cleared the same from Jawahar Custom House, Nhava Sheva on 12 November 2001. Information was gathered by Central Intelligence Unit, Mumbai-I that the Yatch was imported by grossly under invoicing the value. Statements were recorded and the show cause notice came to be issued calling upon the Petitioner as to why additional duty amounting to Rs.35,19,275/- should not be recovered; why the goods should not be confiscated under Section 111(m) of the Customs Act, 1962; and why penalty should not be imposed under Section 112(a) and 114A of the Act of 1962. Similarly notice was also issued to the party in Ajman, UAE.

4. Learned counsel for the Petitioner contended that except the issuance of show cause notice no further action has been taken by the Respondent and nothing stopped the Respondent from proceeding further. Learned counsel relied on the decision of the Division Bench of this court in the case of *Reliance Transport and Travel Pvt. Ltd. vs. Union of India, Through the Secretary and Ors.*¹ It is contended that since there is an inordinate delay in the disposal of the show cause notice, in this case almost 14 years, and since larger public interests requires that show cause notices should be adjudicated expeditiously and within a reasonable period, the action

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of the Respondent is bad in law and therefore to be quashed and set aside.

5. The decision in the case of *Reliance Transport* and the decision referred to therein arose from the show cause notice being kept in Call Book/Dormant file. The Courts have also taken notice that after keeping the matter in Call Book/Dormant file if the said fact was not informed to the party who might believe that the proceedings are dropped and it would be difficult for it to defend them as papers may have been destroyed. Upon this foundation the Courts have interfered in the cases where there was a delay in disposal of show cause notices.

6. In the present case the show cause notice is not transferred to any Call Book or Dormant file, but the proceedings have continued through out. The Petitioner was issued notices to attend personal hearing on 17 January 2008, 30 January 2008, 7 February 2008, 21 October 2013, 21 November 2013, 27 March 2014, 23 April 2014, 25 January 2022, 22 March 2022 and 27 May 2022. Learned counsel for the Respondent is right in contending that since the Petitioner had to be given hearing to follow principles of natural justice the authorities could not straightaway proceed. The Petitioner chose not to attend the proceedings. The delay after 4 December 2019 is explained by the learned counsel for the Respondent that it was due to Covid 19 Pandemic.

7. Thus the Petitioner was fully aware therefore that the proceedings were not transferred to the Dormant file and were active and it is only when the last notice was received for personal hearing on 27 May 2022 that the petitioner has filed this petition. Therefore it cannot be said that the petitioner was under impression that proceedings have been dropped. It cannot be said that the petitioner is not responsible or concerned with the delay that has occurred to apply the law summarised in the case of *Reliance Transport*.

8. We therefore find that no case is made out for interference and to set aside show cause notice on the ground of unexplained delay in its disposal. It is open to the petitioner to advance all such contentions as are available on merits when the petitioner is given personal hearing.

9. Writ Petition is accordingly rejected.

(GAURI GODSE, J.)

(NITIN JAMDAR, J.)