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

WRIT PETITION NO. 2443 OF 2020

Mckinsey and Co. INC.

....Petitioner

V/s.

The Union of India and Anr.

...Respondents

Mr. V. Sridharan, Senior Advocate a/w Mr. Sriram Sridharan i/b Sriram Sridharan for Petitioner.

Mr. Pradeep Jetley, Senior Advocate a/w Mr. Siddharth Chandrashekhar for Respondents.

**CORAM : K.R. SHRIRAM &
PRITHVIRAJ K. CHAVAN, JJ.
DATED : 20th JUNE, 2022**

P.C. :

1. In this petition, petitioner is impugning six show cause notices listed in paragraph no.4 of the petition, details whereof are as under :

Sr. No.	Show Cause Notice No.	Period
1	SCN No. V/ST/GR-V/INT-audit-5/Dn-I/08 dated 21-10-2008	2003-2008
2	SCN No. V/ST/GR-V/INT-Audit-16/Dn-I/09/3286 dated 14-10-2009	2008-2009
3	SCN No. V/ST/GR-I/INT-audit/D-II/10/1617 dated 22-10-2010	2009-2010
4	SCN No.226/COMMISSIONER/2011-12 dated 21.10.2011	2010-2011
5	SCN No.596/COMMR/2012-13 dated 18.10.2012	2011-2012
6	SCN No. V/ST-I/GR-I/DN.II/Show Cause Notice/MCKINSEY/2014 dated 22.05.2014	1.4.2012 to 30.6.2012

2. Mr. Sridharan relying on *Parle International Ltd. vs. Union of India And Others*¹ and *Sushitex Exports India Ltd. And Ors. vs. The Union of India And Anr.*² submitted that the delay in adjudication of show cause notices should not be attributed to petitioner. The delay occurred at the hands of respondent. It is alleged by respondents that they kept the show cause notices in the call book but without informing petitioner. Mr.Sridharan submitted that such delayed adjudication after more than a decade in almost all the cases defeats the purpose of issuing show cause notice. When the show cause notice is issued to a party it is expected that same should be taken to its logical conclusions within a reasonable period so that a finality is reached. Mr. Sridharan submitted that as the adjudication would be in contravention to procedural fairness, it is in violation of the principles of natural justice. An action which is in violation of principles of natural justice cannot be sustained and sudden resurrection of the show cause notices and in most of the cases after more than a decade cannot be justified.

3. Mr. Sridharan also submitted that there are quite a few judgments of this court where the courts have taken a stand that adjudication proceedings cannot be proceeded with in view of the delay in adjudication of the show cause notices. We had benefit of considering these judgments.

1 2020-TIOL-2032-HC-MUM-CX

2 2022-TIOL-123-HC-MUM-CUS

4. Mr. Jetley submitted that respondent should be granted time to complete proceedings. Mr. Jetley stated that he has instructions to make a statement that within six weeks the show cause notices will be adjudicated upon and a reasoned and detailed order will be passed considering all submissions that petitioner will make.

Mr. Jetley states that the submissions made by Mr. Sridharan as noted above that the delayed adjudication is in contravention and in violation of principles of natural justice etc., can also be raised before the adjudicating authority.

5. We feel that petitioner having filed response to the show cause notices, the adjudicating authority should be given an opportunity to conclude the proceedings.

6. In the circumstances, we dispose the petition with the following directions:

(a) Should petitioner wish to make any further reply to the show cause notice, the same shall be filed within one week from today;

(b) The adjudicating authority will adjudicate on the show cause notices and pass a detailed and well reasoned order within six weeks from today. The order shall deal with every submission petitioner would make and shall contain

reasons for the conclusions arrived at;

(c) Before passing any order, personal hearing shall be granted to petitioner and notice of personal hearing shall be issued atleast seven working days in advance;

(d) If the adjudicating authority is going to rely on any orders or pronouncements of any court or tribunal, a list thereof shall be provided to petitioner alongwith notice for personal hearing;

(e) Should petitioner wish to give written submissions after personal hearing, that shall be given within three days of the conclusion of personal hearing;

(f) The order shall be passed and copy served upon petitioner on or before 15th August 2022.

7. We clarify at the cost of repetition, petitioner will be entitled to raise the grounds raised in the judgments relied upon by petitioner today, copy whereof has been given to Mr. Jetley, that the delay in adjudication of the show cause notice should be fatal to the show cause notice.

8. Petition disposed with no order as to costs.

(PRITHVIRAJ K. CHAVAN, J.)

(K.R. SHRIRAM, J.)