

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 251 OF 2001

Kershi S. Cambata & Anr

....Petitioners

V/s.

The Special Director of Enforcement
& Ors.

...Respondents

Mr. Aniruddha Banerji i/b Bharucha & Partners for Petitioners

Mr. Parag A Vyas a/w Ms Karuna Yadav i/b Mr. Ajinkya Jaibhave for
Respondents

CORAM : K.R. SHRIRAM &
PRITHVIRAJ K. CHAVAN JJ
DATED : 24th JUNE 2022

PC. :

1 Mr. Vyas as an officer of this court and in fairness states that in
judgment in *Cambata Industries Pvt. Ltd. Vs. The Additional Director of
Enforcement & Anr.*¹ in paragraph 19, the court has held as under:

“19. Having taken survey of the law holding the field, if one turns to the factual matrix of the case in hand which would unequivocally goes to show that the impugned show cause notices were seeking to adjudicate upon the matters allegedly took place in the year 1958, 1966 and 1970. The first date of hearing of the show cause notice was fixed on 10th April, 1974. Almost for a period of 27 years, no steps were taken by the respondents to proceed with the adjudication proceedings. For the second time, notices were issued on 3rd July, 2001 calling upon the parties to appear for personal hearing on 17th July, 2001. No steps were taken by the respondent No.1 to proceed with the adjudication process. No fault can be attributed to the petitioners for this delay and inaction on the part of the respondents. The respondents are not alleging any malice on the part of the petitioners. It is not the case of the respondents that the petitioners are responsible for delaying the proceedings. No justification is to be found in the explanation for causing delay in the adjudication process. The absence of relevant record due to lapse of more than 30-35 years is also a factual aspect which needs to be taken into account. In our view, the respondents cannot be allowed to reopen the proceedings. If allowed it would cause serious detriment and

1. Dated 18th January 2020 (unreported) in Writ Petition No.2558 of 2003

prejudice to the petitioners. The Department is not entitled to reopen old matters in this manner. As rightly observed in the earlier Judgment of this Court, if the Department's contention as to limitation were to be accepted, it would be mean that the department can commence adjudication proceedings 20 years, 25 years or 30 years after the original show cause notice which cannot be permitted. In the peculiar facts and circumstances of this case, petition is being allowed. Needless to observe that our view is solely based on the facts of this case."

2 Mr. Vyas states that factual aspects referred to in the said judgment would apply to the facts of the present case at hand.

3 In the circumstances, Rule is made absolute in terms prayer clauses (a) and (b).

4 Petition accordingly disposed with no order as to costs.

5 Mr. Bangerji states that the trustees have changed and trustees are currently outside India and his instructions were to request the court for some time to amend the cause title. In view of the above order, amendment will not be required.

(PRITHVIRAJ K. CHAVAN, J.)

(K.R. SHRIRAM, J.)