IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.310 OF 2021

Johnson and Johnson Pvt. Ltd.
(Formerly Johnson and Johnson Ltd.) ..... Petitioner

Vs.

The Union of India and Anr. ..... Respondents

Mr. Gopal Mundhra a/w Ms.Ginita Bodani i/b M/s.Economic Laws Practice for the Petitioner

Mr.Ram Ochani for the Respondents

CORAM: S.V. GANGAPURWALA &
M. G. SEWLIKAR, JJ.

DATED : MAY 2, 2022

P.C.

1. Petitioner is seeking declaration that the adjudication proceedings in relation to the impugned show cause notices dated 07.11.2007, 16.10.2008, 24.09.2009 and 23.04.2010 are not maintainable due to inordinate delay of over 13 years and quash the said notices.

2. The learned counsel for the Petitioner submits that the Petitioner immediately on receipt of the show cause notices, filed its reply to the same. Respondents did not take further action pursuant to the show cause notices. Petitioner was under impression that the Respondents after

issuing show cause notice did not initiate further action.

3. The learned counsel submits that it would not be open for the Respondents to adjudicate the same after long time. The learned counsel, to substantiate his contention relies on the following judgments:

1. Reliance Transport and Travel Pvt. Ltd. vs. The Union of India, the Principal Commissioner of Central Goods and Service Tax, Mumbai in WP No. (L) No.6097 of 2020.

2. D.K.Clearing and Shipping Agency Pvt. Ltd. vs. Union of India and Ors. [2022 (2) TMI 1082 – BOMBAY HIGH COURT]

3. Parle International Ltd. vs. Union of India [WRIT PETITION NO.12904 OF 2019]

4. State of Punjab and Others vs. Bhatinda District Corporation Milk P. Union Ltd. [2007 (217) ELT 325 (SC)]

5. Bhagwandas s. Tolani vs. B.C.Agarwal and Others [1983 (12) ELT 44 (Bom)]

6. Sanghvi Reconditioners Pvt. Ltd. vs. UOI [2018 (12) GSTI 290 (Bom)]

7. Lanvin Synthetics Pvt.Ltd. v. UOI [2015

(322) ELT 168 (Bom)]

8. Raymond Ltd. vs. UOI [2019 (368) ELT 481 (Bom)]

9. Premier Limited vs. Union of India [2017 (354) ELT 365 (Bom)] and maintained in Supreme Court 2018 (360) LT A181 (SC)

10. ATA Freight Line (I) Pvt. Ltd vs. UOI, Commissioner of CGST & Central Excise, Mumbai East, Commissioner of Service Tax-I, Mumbai, Additional Commissioner Service Tax-Mumbai-1 [2022 (3) TMI 1162 – Bombay High Court].

4. The learned counsel for the Respondents submits that the delay in deciding show cause notices was not deliberate or intentional. As per the direction of the Commissioner of Central Excise & Service Tax, Large Taxpayer Unit, Mumbai, Superintendent (Adj.) vide letter dated 04.02.2011 informed the Petitioner that show cause notices are kept pending for adjudication for want of closure of CERA and, therefore, show cause notices were transferred to the Call Book. Thereafter, in the year 2017, new tax regime i.e. GST was introduced. The whole structure of the department was re-organised and as such it took time.

5. There is no dispute that the Petitioner immediately on receipt of the show cause notices, as referred to above, filed its reply to all the show cause notices within time. It is not

the case that adjudication of the impugned show cause notices was delayed at the behest of the Petitioner. Petitioner cannot be faulted with for non adjudication of the show cause notice for slumber of 10 to 13 years. No steps were taken by the Respondents to adjudicate the show cause notices. The Division Bench of this court in the cases referred to above have set aside the show cause notices sought to be adjudicated after 10 to 13 years.

6. In the aforesaid judgments even the defence of the Respondents that the show cause notices were kept in the call book, was also negated.

7. In view of the above, impugned show cause notices not having adjudicated for almost 13 years, are quashed and set aside.

8. Writ Petition accordingly allowed. No costs.

(M. G. SEWLIKAR, J.) **(S.V. GANGAPURWALA, J.)**