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

WRIT PETITION NO. 2404 OF 2021

Sona Processors

... Petitioner

Versus

Commissioner of Central Excise Thane and Ors.

... Respondents

Mr. P. K. Shetty for the Petitioner.

Mr. Jitendra B. Mishra a/w Ms. Maya Majumdar for the Respondents
(through video conference).

**CORAM: R. D. DHANUKA AND
S. M. MODAK, JJ.**

DATE : 21st FEBRUARY, 2022

P.C. :-

. Rule. Mr. Mishra, learned counsel for the respondents waives service. By consent of parties, petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the show cause notice dated 31st March, 1999 and letter dated 22nd March, 2021 fixing date for personal hearing.

3. Learned counsel for the petitioner invited our attention to the order dated 29th July, 2011 passed by the Customs, Excise and Service Tax Appellate Tribunal in the appeal filed by the petitioner, thereby setting aside the order passed by the Commissioner insofar as petitioner is concerned and remanding the matter with a request to

learned Commissioner to decide all the issues afresh, in accordance with law after giving the petitioner all the relevant records, giving them further opportunity, if necessary, to reply to the show cause notice with reference to such documents, giving them a reasonable opportunity to cross-examine the available witnesses and finally giving them a reasonable opportunity of being personally heard. The Tribunal made it clear that the said opportunity was the last opportunity to all the parties. The Tribunal also directed the parties to cooperate with the adjudicating authority for expeditious disposal.

4. It is the grievance of the petitioner that though the said order was passed in the year 2011, the respondents have not furnished any documents or the relevant record till date. It is submitted that within four weeks from the date of the petitioner furnishing the documents and the relevant records, the petitioner was to file a reply to the show cause notice. The petitioner filed interim reply to the show cause notice.

5. Mr. Mishra, learned counsel for the respondents on the other hand submits that relevant records are furnished to the petitioner, however no reply to the show cause notice is filed by the petitioner except interim reply. However, without prejudice to rights and contentions of the respondents, the respondents are agreeably to furnish copy of the relevant records to the petitioner within two weeks from today. He further states that insofar as cross-examination of witnesses is concerned, the petitioner would be permitted to cross-examine the available witnesses. Statements are accepted.

6. Without going into the issue as to whether the respondents have already furnished the relevant records to the petitioner till date or not, we direct the respondents to furnish copies of the relevant records to the petitioner within two weeks from today. The petitioner is directed to file reply to the show cause notice within four weeks from the date of receipt of such relevant records.

7. It is made clear that no further extension of time would be granted either to the petitioner or to the respondents. The respondents shall give a reasonable opportunity to cross-examine the available witnesses. A list of available witnesses shall be furnished to the petitioner within two weeks from the date of the petitioner filing reply to the show cause notice. Respondents shall keep the available witnesses present for the purpose of cross-examination before the learned Commissioner.

8. Learned Commissioner shall make an endeavour to dispose of the proceedings remanded by the said order passed by the Tribunal within eight weeks from the date of the petitioner filing reply to the show cause notice. The petitioner shall not seek any unnecessary adjournment before the learned Commissioner and shall cooperate for disposing of the proceedings expeditiously.

9. Writ Petition is allowed in aforesaid terms. Rule is made absolute accordingly. There shall be no order as to costs.

10. This Court has not expressed any views on the merits of the matter.

11. Parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]

[R. D. DHANUKA, J.]