

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

WRIT PETITION NO.1656 OF 2008

M/s. J. Ray McDermott Eastern Hemisphere Ltd. : Petitioner.
Versus
Union of India & ors. : Respondents.

WITH
WRIT PETITION NO.1657 OF 2008

M/s. J. Ray McDermott Middle East & ors. : Petitioner.
Versus
Union of India & ors. : Respondents.

WITH
WRIT PETITION NO.1679 OF 2008

Arunabha Sen : Petitioner.
Versus
Union of India & ors. : Respondents.

WITH
WRIT PETITION NO.1701 OF 2008

Arun Tarkar : Petitioner.
Versus
Union of India & ors. : Respondents.

Mr. Chirag Shetty i/by Economic Law Practice for Petitioners in all Petitions.
Mr. P S Jetly, Senior Advocate a/w Mr. Siddharh Chandrashekhar for
Respondents.

**CORAM : K.R. SHRIRAM &
A.S. DOCTOR, JJ.**
DATED : 29th JULY 2022

P.C.

1 After the Petitions were argued by Mr. Chirag Shetty for sometime, the court informed Mr.Shetty that it is settled law that a party does not have option to choose what he likes in the settlement order and agitate what he does not like, either party accepts the order or does not accept the entire order. It was also informed to Mr. Shetty that it is also settled law that High Court can only go into procedure followed by Settlement Commission and not be concerned with the decision. It is settled law that this court is not the court of appeal while exercising its jurisdiction under Article 226 of the Constitution of India against the order of Settlement Commission. The Hon'ble Apex Court in *Santogen Textile Mills Ltd. vs. Union of India*¹ upheld the view expressed by Division Bench of this Court in *Santogen Textile Mills vs. Union of India*² that this court would only be permitted to examine legality of the procedure and not validity of the order of Settlement Commission. Even in the case that was before this court (Bombay judgment) in *Santogen Textile Mills* (supra) the court observed that the Hon'ble Apex Court in *Jyotendrasinhji vs S. I. Tripathi*³ while considering the scope of writ jurisdiction of the High Court, cautioned the writ court and permitted it to examine the legality of the procedure followed, not the validity of the order, it not being a court of appeal. The court also noted that the Hon'ble Apex Court had laid down that the writ court

1 2002 (145) E.L.T. A162

2 2002 (143) E.L.T. 289 (Bom)

3 (1993) 201 ITR 611

should not be concerned with the decision but with the decision making process.

2 At this stage Mr. Shetty sought leave of the court to withdraw the Petitions with liberty to go through the entire process of replying to the show cause notices and follow the adjudication procedure.

3 Mr. Jetly, appearing for Respondent, has no objection.

4 In the circumstances, the Petitions are disposed with the following directions :-

- (a) Petitioners could reply to the show cause notices within six weeks.
- (b) Mr. Shetty, appearing for Petitioners, undertakes not to raise issues of stale notices/issue about adjudication after such a long gap. Undertaking is accepted.
- (c) Adjudication order to be passed within 12 weeks of receiving reply, if filed. Before passing any order, Petitioners shall be given a personal hearing. Notice of personal hearing shall be given at least 7 days in advance.

- (d) All rights and contentions of Petitioners are kept open.
- (e) Adjudication order shall be a well reasoned order dealing with all submissions made by Petitioners.
- (f) Should Petitioners wish to submit written submissions recording what transpired during personal hearing, same shall be submitted within 3 days of the personal hearing.
- (g) We clarify that we have not made any observation on the merits of the matter.
- (h) Petitions are disposed.

[A.S. DOCTOR, J]

[K.R. SHRIRAM , J]