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

**WRIT PETITION NO. 1509 OF 2007**

M/s. Gujarat Ambuja Exports Ltd.

....Petitioner

V/s.

Union of India

...Respondents

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Mr. Jitendra Motwani a/w Mr. Chirag Shetty i/b Economic Laws Practice for  
Petitioner.

Mr. Sham V. Walve for Respondent No.3.

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**CORAM : K.R. SHRIRAM &  
A.S. DOCTOR, JJ.**

**DATED : 22<sup>nd</sup> JULY, 2022**

**P.C. :**

1. Petitioner had filed settlement application before the Settlement  
Commission, i.e., Respondent No.2 in relation to demand raised in three  
show cause notices. The three show cause notices are as under :

| Sr.<br>No. | SCN No.                                                                        | Date       | Period                   | Duty demanded    |                                                                                                                  |
|------------|--------------------------------------------------------------------------------|------------|--------------------------|------------------|------------------------------------------------------------------------------------------------------------------|
| 1.         | F. No. V 52/15-111/Dem/OA/04-05 for clearance of Product Cotton Yarn in DTA    | 31.01.2005 | 01.04.2000 to 30.11.2001 | Rs.1,15,34,689/- | Penal and Interest provisions invoked against the applicant. Personal penalty also proposed on the co-applicants |
| 2.         | F. No. V 52/15-122/Off/OA/04-05 for clearance of Product Open End Yarn in DTA  | 15.02.2005 | 01.04.2000 to 30.11.2004 | Rs.3,27,41,199/- | Penalty and Interest proposed on the applicant.                                                                  |
| 3.         | F. No. V 52/15-22/Dem/OA/2005-06 for clearance of Produce Open End Yarn in DTA | 21.07.2005 | 01.12.2004 to 31.03.2005 | Rs.25,91,989/-   | Penalty and Interest proposed on the applicant.                                                                  |
|            | Total                                                                          |            |                          | Rs.4,68,68,877/- |                                                                                                                  |

2. While the demand in relation to the first show cause notice is decided in paragraph no. 25.6 of the impugned order dated 22<sup>nd</sup> June 2007 passed by the Settlement Commission and settled in favour of petitioner, the demand with respect to second and third show cause notices is confirmed against petitioner.

3. When the petition was taken up for hearing on 14<sup>th</sup> July 2022 Mr. Walve submitted that petitioner does not have option to choose what he likes in the settlement order and agitate what he does not like. Mr. Walve stated that either petitioner accepts the order or does not accept the entire order.

4. The court asked Mr. Motwani that if he was not happy with the conclusion arrived at by Settlement Commission, petitioner had option to go through the entire process of replying to the show cause notices and invite adjudication and then follow the due process of law. Mr. Motwani sought time to seek instructions and the matter was stood over. Mr. Motwani submitted that as regards the first show cause notice dated 31<sup>st</sup> January 2005 the finding of the commission has been accepted and the duty liability worked out has been paid. As regards the other two show cause notices, petitioner would go through the entire process of replying to the show cause notices and follow the adjudication procedure. Mr. Walve also has no objection to that.

5. In the circumstances, the petition is disposed with the following directions :

- (a) Petitioner could reply to the two show cause notices at Sr. No.2 and 3 mentioned in paragraph no. 1 above.
- (b) Reply to be filed within six weeks.
- (c) Mr. Motwani's undertaking not to raise an issue of stale notices is accepted.
- (d) Mr. Motwani's statement that petitioner will not raise an issue about adjudication after such a long gap on these two show cause notices is accepted.
- (e) The adjudication order to be passed within twelve weeks of receiving the reply. Before passing any order petitioner shall be given a personal hearing.
- (f) All rights and contentions of petitioner which includes relying upon the investigation reports called for by the Settlement Commission, to effectively respond to the show cause notice is also kept open.
- (g) The adjudication order shall be a well reasoned order dealing with all the submissions made by petitioner.

6. We clarify that we have not made any observations on the merits of the matter.

7. Petition disposed.

(A.S. DOCTOR, J.)

(K.R. SHRIRAM, J.)