



Pradnya

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7906 OF 2024

RDC Concrete India Limited and anr. ...Petitioners

Versus

Union of India and ors. ...Respondents

Mr Sanjeev Nair, a/w Ms Dhruvi Shah, i/b. Lumiere Law Partners, for the Petitioners.

Mr Jitendra B. Mishra, a/w Ms Sangeeta Yadav, for the Respondents.

CORAM M.S. Sonak &
Jitendra Jain, JJ.
DATED: 17 December 2024

PC:-

1. Heard learned counsel for the parties.
2. This Petition challenges show cause notices dated 2 May 2008 and 22 September 2009 culminating into order in original dated 31 January 2024 along with corrigendum dated 9 February 2024. The delay in adjudication of the show cause notices is approximately 15 years. The reason given for the delay as recorded in the order in original is that the show cause notices were transferred to the call book on account of similar issue being pending before the Supreme Court. However, it is admitted position that this transfer of show cause notices to the call book was never informed or

intimated to the Petitioners. On similar issue where there has been no intimation of transfer to the call book, this Court have not accepted justification for delay in adjudication of the show cause notice.

3. Mr Mishra, learned counsel for the Respondents states that the master circular issued in 2017 mandated intimating the Petitioners of the show cause notices being transferred to the call book and since there was no such requirement prior to 2017, it was not obligatory on them to inform the Petitioners. In our view this may not be the correct approach. Even in the absence of any circular, the fact that the show cause notice is not being adjudicated on account of transfer to the call book same ought to have been informed to the Petitioners by following the principle of natural justice. The master circular 2017 only clarify this position and therefore, even prior to 2017 we have observed in various cases referred to above that it was incumbent upon the Respondents to have intimated the Petitioners. Therefore, this contention of the Respondents is rejected. This very contention was expressly rejected by the Coordinate Bench of this Court in the case of **Raymond Ltd. v. Union of India**¹.

4. Following the decisions in **Coventry Estates Pvt. Ltd. vs. The Joint Commissioner CGST and Central Excise and another**², **Bhagwandas S. Tolani vs. B. C. Aggarwal and others**³, **Cambata Indus Pvt. Ltd. vs. Additional Dir. of Enforcement, Mumbai**⁴, **Shirish Harshavadan Shah vs. Deputy**

¹ 2019 (368) E.L.T. 481 (Bom.)

² 2023(10) Centax 38 (Bom.)

³ 1983 (12) E.L.T. 44 (Bom.)

⁴ 2010 (254) ELT 269 (Bom.)

Director, E.D., Mumbai⁵, Hindustan Lever Limited vs. Union of India⁶, Premier Ltd. vs. Union of India⁷, Union of India vs. Premier Ltd.⁸, Raymond Ltd. vs. Union of India⁹, Parle International Limited vs. Union of India and others¹⁰, Siddhi Vinayak Syntex Pvt. Ltd. vs. Union of India and others¹¹, Reliance Transport & Travel Pvt. Ltd. vs. Union of India¹², Sushitex Exports (India) Ltd. and others vs. Union of India and others¹³, ATA Freight Line (I) Pvt. Ltd. vs. Union of India¹⁴, Union of India and others vs. ATA Freight Line (I) Pvt. Ltd.¹⁵, Beico Industries Pvt. Ltd. vs. Union of India and others¹⁶, Eastern Agencies Aromatics (P) Ltd. vs. Union of India and others¹⁷, Cma-Cgm Agencies (India) Pvt. Ltd. vs. The Union of India¹⁸, Oil and Natural Gas Corporation Limited vs. Union of India and others¹⁹, Bombay Dyeing and Manufacturing Company Limited vs. Deputy Commissioner of CGST and CX²⁰,

⁵ 2010 (254) E.L.T. 259 (Bom.)

⁶ 2011 (24) S.T.R. 97 (Bom.)

⁷ 2017 (354) E.L.T. 365 (Bom.)

⁸ 2018 (360) E.L.T. A181 (S.C.)

⁹ 2019 (368) E.L.T. 481 (Bom.)

¹⁰ 2020 (11) TMI 842 (Bom.)

¹¹ 2017 (352) E.L.T. 455 (Guj.)

¹² 2022 (62) G.S.T.L. 33 (Bom.)

¹³ 2022 (380) E.L.T. 244 (Bom.)

¹⁴ 2022 (3) TMI 1162 (Bom)

¹⁵ 2023 (2) TMI 1131 (SC)

¹⁶ 2022 (8) TMI 1090 (Bom)

¹⁷ 2022 (12) TMI 323 (Bom)

¹⁸ 2023 (8) TMI 1050 (Bom)

¹⁹ 2023 (3) TMI 834 (Bom)

²⁰ 2022 (2) TMI 783 (Bom)

Sanghvi Reconditioners Pvt. Ltd. vs. Union of India²¹, Godrej and Boyce Mfg. Co. Ltd vs. Union of India²², EPL Ltd vs. Union of India and others²³, Shreenathji Logistics vs. Union of India and others²⁴, Nizam Sugar Factory vs. Collector of Central Excise, A.P.²⁵, Dharampal Lalchand Chug vs. Commissioner of C.Ex., Nashik²⁶, Rachana Garments Pvt. Ltd. vs. Commissioner of Customs²⁷, Lanvin Synthetics Private Limited vs. Union of India²⁸, Harkaran Dass Vedpal vs. Union of India²⁹, ICICI Home Finance Company Ltd. vs. Union of India & Principal Commissioner of CGST & CX Mumbai³⁰, UPL Limited vs. The Union of India and others³¹, Shahaji Bhanudas Bhad vs. The Union of India and others³², Bhushan Vora vs. The Union of India and others³³, The Great Eastern Shipping Company Ltd. vs. The Union of India³⁴, Paresh H Mehta vs. Union of India³⁵, M/s. Esjaypee Impex Pvt Ltd. and another vs. Union of India and others³⁶ and Pradeep Subhashchandra Mehta vs. The

²¹ 2018 (12) GSTL 290 (Bom.)

²² 2022 (9) TMI 318 (Bom)

²³ 2023 (9) TMI 15 (Bom)

²⁴ 2022 (11) TMI 709 (Bom)

²⁵ 2006 (197) E.L.T. 465 (S.C.)

²⁶ 2015 (323) E.L.T. 753 (Bom.)

²⁷ 2022 (8) TMI 345 (Bom.)

²⁸ 2015 (322) ELT 429 (Bom)

²⁹ 2019 (368) E.L.T. 546 (P&H)

³⁰ 2024 (6) TMI 682 (Bom)

³¹ 2023 (8) TMI 1152 (Bom)

³² 2024 (9) TMI 405 (Bom)

³³ 2024 (9) TMI 713 (Bom)

³⁴ 2024 (10) TMI 912 (Bom)

³⁵ 2024 (10) TMI 1412 (Bom)

³⁶ 2024 (11) TMI 622 (Bom)

Union of India and others³⁷, we quash and set aside the order in original dated 31 January 2024 along with corrigendum dated 9 February 2024.

5. Writ Petition is disposed of. No order as to costs.

(Jitendra Jain, J)

(M.S. Sonak, J)

³⁷ 2024 (11) TMI 910 (Bom)