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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1237 OF 2025

FFR Software Pvt. Ltd.

.. Petitioner.

Versus

Union of India & Ors.

.. Respondents

**Mr. Prakash Shah, Senior Advocate a/w Adv. Jas Sanghavi and
Adv. Vikas Poojary i/b PDS Legal for the Petitioner.**

**Adv. Subir Kumar a/w Adv. Suman Kumar Das a/w Adv. Abhinav
Palsikar a/w Adv. Ashita Aggarwal for Respondents.**

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE: JANUARY 28, 2025

P. C.

1. Rule. Respondents waives service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition seeks to quash and set aside the impugned Show Cause Notice F. No. SG/ Misc-14 /2010-11/ SIIB (X)/JNCH and F. No. SG/Misc- 150/2009 SIIB (X) dated 28.03.2013 issued by Respondent No. 2 (Exhibit A) to the Petitioner. The short point on which the aforesaid Show Cause Notice is sought to be

challenged is the inordinate delay in adjudicating the said Show Cause Notice.

3. Mr. Prakash Shah, the learned Senior counsel appearing on behalf of the Petitioner, brought to our attention the contents of the Show Cause Notice and pointed out that the said Show Cause Notice was issued to several noticees. One of these noticees namely Noticee No. 1, Shri. Pradeep Shubhash Chandra Mehta, had approached this Court by filing Writ Petition No. 7539 of 2023, challenging the very same Show Cause Notice on the ground of delay in adjudicating the said Show Cause Notice. This Court, on 12th November, 2024, quashed the Show Cause Notice on the ground of inordinate delay in adjudication of the said Show Cause Notice. He submitted that considering that the High Court has already quashed the Show Cause Notice qua a Co-Noticee of the Petitioner, the Show Cause Notice against the present Petitioner is also required to be quashed and set aside.

4. On the other hand, Mr. Kumar, the learned Advocate appearing on behalf of the Respondents, submitted that the Show Cause Notice was issued under Section 124 of the Customs Act, 1962.

Under the said provision, there is no time limit set out within which the said Show Cause Notice has to be adjudicated. He submitted that unlike Section 28 where a time frame is set out for adjudication, such a provision is conspicuously absent in Section 124. This being a case, he submitted that there is no merit in the argument of the Petitioner that the Show Cause Notice ought to be quashed on this ground. This apart, he submitted that it is not as if nothing was done in furtherance of the Show Cause Notice for all these years. He submitted that personal hearings were scheduled in October 2014, October 2015, October 2016, November 2016, November 2016, January 2017, May 2019, April 2021 and May 2023. He submitted that the Petitioner's representative attended the personal hearing on most of these days. He therefore submitted that in these circumstances, one cannot fault the department for the delay in the adjudication of the said Show Cause Notice.

5. We have heard the learned counsel for the parties. We have also perused the papers and proceedings in the above Writ Petition. It is not in dispute that the Show Cause Notice was issued on 28th March, 2013. This Show Cause Notice has not been adjudicated till date (for almost 12 years). A Writ Petition that was filed by a Co-Noticee

challenging this very same Show Cause Notice was decided by this Court on 12th November, 2024. The Order passed by this Court in the case of the Co-Noticee is also annexed at Exhibit B to the Petition. What is important to note is that in the reply filed by the Respondents in that Writ Petition, the ground for the delay in adjudication was frequent changes in the Officers adjudicating the case. In other words, it was the case of the department, that due to the frequent change in Officers adjudicating the case, and also due to handing over the case many times, there was a delay in completion of the adjudication proceedings. In that case, it was not even the case of the department that the Petitioner was in any way responsible for the delay in adjudication. This Court therefore quashed this very same Show Cause Notice against the Co-Noticee. For the sake of convenience, the order of this Court in the case of the Co-Noticee (dated 12/11/2024) is reproduced hereunder :-

“1. Heard learned counsel for the parties.

2. Rule. The rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.

3. The Petitioner challenges the show-cause notice and further adjudication order based on the show-cause notice dated 28 March 2013, arguing that the inordinate, unexplained delay violates the principles of natural justice.

4. The record shows that Respondent No.2 issued a show-cause notice on 28 March 2013. Between 12 April 2013 and 2

September 2013, the petitioner sought copies of the illegible documents to file an effective reply. Ultimately, an interim reply was filed on 6 September 2013.

5. The affidavit filed on behalf of the Respondents shows that personal hearings were scheduled on 7/10/18 October 2014, 19/21 October 2015, 18 October 2016, 15 November 2016, 18 November 2016, 10 January 2017, 15 May 2019, 30 May 2019, 14 April 2021, 19 April 2021 and 23 May 2023. The records also show that the Petitioner's representative attended the personal hearing on most dates except for two dates. Paragraph 5 of the reply filed on behalf of Respondents admitted that the Petitioner was not responsible for delayed adjudication. The reason given in paragraph 5 for the delayed adjudication is the frequent changes in officers adjudicating the case.

6. Paragraph 5 of the Respondents' affidavit reads as follows:-

"5. With respect to Ground No. C, the respondents state that the department has not alleged that the petitioner has delayed the adjudication. Department is fully committed to complete the adjudication proceedings. However, due to frequent change in the officer adjudicating the case and also due to handing over many times, there was delay in completion of the adjudication proceedings. In this connection it is humbly prayed that a time frame of four months may be given to complete the adjudication proceedings subject to co-operation from the petitioner."

7. Ms. Punde, learned standing counsel on behalf of Respondents, submits that the show cause notice was issued to the Petitioner and others. She submitted that adjournments had to be granted occasionally to accommodate such requests made on behalf of the Petitioner's co-noticees. She submitted that the reasons set out in the affidavit constitute sufficient cause and, therefore, the explanation for the delay may be accepted. She submitted that the delay was on account of the anxiety of the Respondents to avoid any charge of failure of natural justice.

8. We have considered the material on record and the reply filed on behalf of Respondents. We also have considered the submissions made by Ms. Punde on behalf of the Respondents. However, we are satisfied that this is a case of inordinate unexplained delay that has caused serious prejudice to the Petitioner.

9. In similar circumstances, this Court has, through its several decisions, quashed the show cause notice and restrained the Respondents from proceeding further with the adjudication, which is inordinately delayed. In this regard, we refer to our decision in the cases of Coventry Estates Pvt. Ltd. Vs. Joint Commissioner CGST and Central Excise & Anr. 2023 (10) Centax 38 (Bom), Paresh H. Mehta vs. The Union of India 2024 (10) TMI 1412, and M/s. Esjaypee Impex Pvt. Ltd. & Anr. vs. The Union of India & Ors. Writ Petition No.3793 of 2024 decided on 11 November 2024.

10. By adopting the reasoning in the above decisions, we quash and set aside the impugned show-cause notice dated 28 March 2013 and restrain the Respondents from taking further steps or proceedings in furtherance of it.

11. The Rule is made absolute in the above terms without any order as to cost.

12. All concerned must act on an authenticated copy of this order.”

(emphasis supplied)

6. Even in the present case, it is not the case of the department that the Petitioner herein was in any way responsible for the delay in adjudication of the Show Cause Notice.

7. Considering that the Show Cause Notice has already been quashed and set aside in the case of a Co-Noticee, for the very same reasons as set out in the order dated 12/11/2024 passed in Writ Petition No. 7539 of 2023, we have no hesitation in following the same course of action.

8 In view of the forgoing discussion, we quash and set aside the impugned Show Cause Notice dated 28th March, 2013, and restrain the Respondents from taking any further steps or proceedings in furtherance of it.

9. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

10. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]