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

WRIT PETITION NO.3279 OF 2025

M/s. Zeba and Sabah Associates ...Petitioner

Versus

The Union of India & Ors. ...Respondents

Mr. Bhavin Gada a/w Mr. Deepak Shukla & Mr. Praveen Maurya i/by BNS Legal for the Petitioner.
Mr. Himanshu Takke, AGP for Respondent No.3.
Mr. Karan Adik a/w Ms. Sangeeta Yadav for Respondent No.4.

CORAM: M. S. Sonak & Jitendra Jain, JJ.
DATED: 13 October 2025

ORAL ORDER:- *(Per M. S. Sonak, J.)*

1. Heard learned counsel for the parties.

2. This petition seeks to recover an amount of Rs.1,99,178/- from the Custom Authorities and an amount of Rs.81,170/- from the Sales Tax Authorities *inter alia,* on the ground that the Custom Authorities had made a short supply of HSD Oil purchased by the Petitioner in auction and the Sales Tax Authorities had incorrectly recovered the sales tax.

3. The above transactions concluded in the years 2003 to 2005. After that, the Petitioner approached the Sales Tax Authorities, and by a common judgment and order dated 23 February 2017, the Sales Tax Tribunal issued directions for verification and the passing of appropriate orders.

4. The Petitioner claims to have been making representations to the Customs Authorities for payment of the amount approximately

Rs.2,00,000/- since 2005. The learned counsel for the Petitioner also relied upon the communication of 21 June 2005 under which the Customs Authorities agreed to the refund of this amount.

5. From the averments in the petition, it is apparent that the claim is about a contractual dispute arising out of the purchase of HSD in an auction which concluded before 2005. This is not a case of some statutory payments. Apart from the fact that there are disputes, we find that the petition provides no explanation for the delay. The learned counsel for the Petitioner merely points out that the representations were made from time to time.

6. By making representations, the limitation period for enforcing non-statutory and purely contractual claims cannot be indefinitely extended. Assuming the communication of 21 June 2005 constitutes any acknowledgment of debt, still, a suit or proceedings for recovery should have been initiated within a reasonable period. This petition was instituted on 7 February 2025, after a delay of almost 20 years.

7. Mr. Adik submitted that it would now be extremely difficult for the Respondents to trace the records and defend such a delayed claim, which was raised by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

8. The learned counsel for the Petitioner relies on ***M/s. Kailash Nath Associates vs. Delhi Development Authority & Anr.***[1]. That was a case dealing with the refund of the earnest money deposit. Besides, that does not appear to be a case where a petition was filed after almost 20 years from the accrual of the cause of action.

1 [2015] 1 S.C.R. 627

9. The learned counsel also relied on ***M/s. Utkal Highways Engineers And Contractors vs. Chief General Manager & Ors.***[2] decided by the Hon'ble Supreme Court on 8 January 2025. Again, even this was not a case where the party had approached the High Court after a delay of over 20 years.

10. In ***State of M.P. vs. Bhailal***[3], petitions were filed in the High Court of Madhya Pradesh for refund of tax paid under the provisions held to be unconstitutional. Some of the petitions were filed within three years from the date of the decision holding the provisions *ultra vires*, whereas others were filed after three years. The Supreme Court allowed the former group of petitions but dismissed the latter by applying the analogy of the Limitation Act.

It observed :

> *"This Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the court to hold that it is unreasonable."*
>
> *(emphasis supplied)*

11. Accordingly, on the grounds of laches and because the Petitioner should have invoked the ordinary remedies, considering that this was purely a contractual dispute, we decline to entertain this petition at this point in time. This petition is dismissed without any order for costs.

(Jitendra Jain, J.) **(M. S. Sonak, J.)**

2 Special Leave Petition (C) No.14350/2022
3 1964 SC 1006

Signed by: Sayyed Saeed Ali
Designation: PA To Honourable Judge
Date: 15/10/2025 15:27:42