VAIBHAV RAMESH JADHAV
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1733 OF 2026
IN
WRIT PETITION NO. 5344 OF 2026

Farooq Musa Jamadar & Anr. … Applicants

V/s.

Union of India, Through Secretary, Ministry of Finance, Department of Revenue & Ors. … Respondents

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Mr. Rohan Shah, Senior Advocate (through V.C.) with Mr. Sameer Pandit i/by Chaitanya Khade for the Applicants.

Mr. Anand Kulkarni, (through V.C.) with Mr. Vaibhav Kupawade for Respondents No.1 to 3-UoI.

Mr. R. P. Kadam, 'B' Panel Counsel AGP for the Respondent-State.

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CORAM : ABHAY AHUJA &
NEERAJ P. DHOTE, JJ.

DATE : 23rd OCTOBER, 2026

P.C.:

1. This interim application has been circulated seeking modification of paragraph No. 5 of the order dated 13th October, 2026 passed in Writ Petition No. 5344 of 2026.

2. When the matter is called out, Mr. Rohan Shah, learned Senior Counsel appearing for the Applicants, has submitted that since the proceedings before the Respondent No. 2 are barred, as in no order has

been passed within two years from the date of the issuance of the show-cause notice under Section 11A(11)(b) of the Central Excise Act, 1944, and there has been an unreasonable delay in commencing the proceedings, in view of settled law, the show-cause notice issued deserving a dismissal, this Court may modify paragraph No. 5 of the order dated 13th October, 2026 only to say that till the final hearing of the writ petition, the Commissioner not to pass any final order pursuant to the show-cause notice dated 27th January, 2018.

3. Mr. Shah, has relied upon the decision of this Court in the case of ***Parle International Ltd. vs. Union of India***, 2021 (375) E.L.T. 633 (Bom.). Relying upon the decision in the case of ***CMA-CGM Agencies (India) Pvt. Ltd***, (2023) 3 Centax 43 (Bom.) which in turn has relied upon the case of ***Parle International Ltd.*** (supra), in support of his contentions, learned Senior Counsel has submitted that although Writ Petition No.1313 of 2021 was finally heard and decided on the 17th January, 2023, on 8th October, 2020, this Court had directed that no final order be passed by the Respondents pursuant to show-cause notice dated 12th October, 2009, which order was continued till the date of the decision in the said writ petition in the case of ***CMA-CGM Agencies (India) Pvt. Ltd.,*** (supra). Mr. Shah submits that this Court may follow the same course of action in this matter as well, since the delay of eight

years and eight months has been unreasonable, and also that the Commissioner is *functus officio* in view of the limitation under Section 11A(11)(b) of the Central Excise Act, 1944.

4. Mr. Kulkarni, learned Counsel appearing for Respondents No. 1 to 3, has submitted that the Applicants have not been cooperating with the Commissioner and have been seeking adjournments, and that while this Court has already granted time to the said Respondents to file reply and listed the matter on 17th December, 2026, this Court may direct the Applicants not to take any adjournments in the proceedings before the Commissioner.

5. Mr. Shah, learned Senior Counsel appearing for the Applicants, on instructions, submits that it has taken eight years for the Commissioner to afford an opportunity of cross-examination to the Petitioners, however, the Applicants will cooperate with the Respondents in the proceedings on a without prejudice basis, as according to the Applicants, the Commissioner has no locus to conduct the proceedings after the period of two years, and also that in view of settled law, the show-cause notice not resulting in conclusion within a reasonable period deserves to be quashed and set aside.

6. List the writ petition as per schedule on 17th December, 2026.

7. Let the order dated 13th October, 2026 be complied with. Let the replies and rejoinders be filed and served in time.

8. Having heard the learned Senior Counsel and the Counsel and without prejudice to the rights and contentions of the parties, the adjudicating authority to proceed in the proceedings regarding the show-cause notice dated 27th January, 2018, however, the said authority not to pass any final order pursuant to the said show-cause notice until further orders of this Court.

9. The Interim Application to accordingly stand disposed of.

[NEERAJ P. DHOTE, J.] [ABHAY AHUJA, J.]