IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12904 OF 2019

Parle International Limited … Petitioner
Vs.
Union of India and others … Respondents

Mr. Bharat Raichandani i/b. UBR Legal for Petitioner.
Mr. Sham Walve a/w. Mr. Ram Ochani for Respondents.

CORAM : UJJAL BHUYAN &
ABHAY AHUJA, JJ.

Reserved on : OCTOBER 22, 2020
Pronounced on: NOVEMBER 26, 2020

P.C. : (*Per Ujjal Bhuyan, J.*)

Heard Mr. Bharat Raichandani, learned counsel for the petitioner and Mr. Sham Walve, learned counsel for the respondents.

2. This is a petition under Articles 226 / 227 of the Constitution of India. Initially the writ petition was filed seeking a direction to the respondents for a declaration that adjudication of the show-cause notices dated 01.06.2006 and 28.11.2006 after 13 years is illegal, void and bad in law and on that ground to quash the said show-cause notices. Subsequently following amendment of the writ petition, petitioner has challenged legality and validity of the order-in-original dated 11.11.2019 issued by respondent No.3 in terms of the above two show-cause notices.

3. Case of the petitioner is that it is a private limited company incorporated under the Companies Act, 1956 having its registered office at Silvasssa, Dadra and Nagar Haveli. Petitioner is engaged in the business of manufacture of excisable goods falling under Chapter No.39 of the Central Excise Tariff Act, 1985. Petitioner was registered under the central excise department and used to file returns in accordance with

the Central Excise Act, 1944 and the rules made thereunder. It is also stated that petitioner was availing CENVAT credit on inputs and capital goods under CENVAT credit rules of different years.

4. A show-cause notice dated 01.06.2006 under Rule 25 of the Central Excise Rules, 2002 was issued by the Joint Commissioner of Central Excise and Customs, Vapi alleging amongst others that petitioner had availed excess CENVAT credit amounting to Rs.11,52,281.00. This was followed by another show-cause notice dated 28.11.2006 issued to the petitioner by the Deputy Commissioner of Central Excise and Customs, Vapi alleging amongst others that petitioner had wrongly availed excess CENVAT credit of Rs.98,324.00.

5. Petitioner responded to the above show-cause notices by submitting detailed replies on 04.09.2006 and 25.01.2007 respectively denying the allegations made against it.

6. Thereafter nothing was heard by the petitioner and there was no communication to the petitioner either from the office of Joint Commissioner of Central Excise and Customs or Deputy Commissioner of Central Excise and Customs. Since no consequential decision was taken, petitioner was under the *bona fide* belief that the central excise authorities had accepted its reply submissions and had given a *quietus* to the matter.

7. After about 13 years, petitioner was served with a letter dated 13.08.2019 issued from the office of respondent No.3 informing the petitioner that in connection with the two show-cause notices dated 01.06.2006 and 28.11.2006, a personal hearing was fixed on 21.08.2019. This letter was followed by subsequent letters dated 23.08.2019 and 04.09.2019.

8. Being aggrieved by the attempt of the respondents to revive the

show-cause notices after a lapse of almost 13 years, petitioner filed the present writ petition on 06.09.2019 seeking a direction to the respondents for a declaration that such delayed adjudication would render the show-cause notices and consequential proceedings null and void.

9. When the case was taken up on 19.12.2019, learned counsel for the petitioner had to apprise the Court that after filing of the writ petition, order-in-original was passed on 11.11.2019 only to frustrate hearing of the grievance of the petitioner by the Court. On 19.12.2019, this Court had passed the following order:-

> "2. The Petitioner has challenged the show-cause notices dated 1 June 2006, 28 November 2006 and subsequent letters issued to the Petitioner calling the Petitioner to attend the hearing, on the ground that after lapse of thirteen and half years, proceedings have become stale and have not concluded in any punitive order against the Petitioner.
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> 3. Learned Counsel for the Petitioner submits that the Petition was filed on 6 September 2019 and copy was served on Respondents and thereafter an order has been passed on the show-cause notice on 11/11/2019 which has been received by Petitioner yesterday. He contends that this is an attempt to frustrate the hearing of the Petition. Learned Counsel for the Respondents disputes this position. Learned Counsel for the Petitioner seeks leave to amend the Petition to incorporate the necessary challenge.
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> 4. Leave to amend granted. Amendment to be carried out by 13/01/2020. Amended copy be served on the learned Counsel for the Respondents."

9.1. Thereafter amendment was carried out bringing on record the order-in-original dated 11.11.2019 and the challenge thereto.

10. Be it stated that by the order dated 11.11.2019, respondent No.3 confirmed the demand of central excise duty of Rs.11,52,281.00 as per show-cause notice dated 01.06.2006 besides ordering payment of interest and imposition of penalty. However, the proceeding initiated *vide* show- cause notice dated 28.11.2006 was dropped. In the said order,

it was mentioned that the two show-cause notices were transferred and kept in call book in view of pendency of department's appeal on similar issue before the Gujarat High Court in the case of the petitioner itself i.e., Tax Appeal No.359 of 2011. The appeal was subsequently disposed of on 17.06.2015 whereafter as per direction of higher authority both the show-cause notices kept in the call book were retrieved for commencement of adjudication proceedings.

11. Respondents have filed affidavit in reply. Stand taken in the affidavit is that respondents had kept the adjudication pursuant to the show-cause notices in abeyance in view of circular dated 26.05.2003 of the then Central Board of Excise and Customs. Accordingly, the two show-cause notices dated 01.06.2006 and 28.11.2006 were transferred to the call book as the departmental appeal filed on 21.07.2006 in a similar matter was pending before the Customs Excise and Service Tax Appellate Tribunal (CESTAT), Mumbai. The said appeal was taken up by CESTAT, Ahmedabad and was disposed of on 06.08.2010. Against the order of CESTAT, Ahmedabad department filed further appeal before the Gujarat High Court being Tax Appeal No.359 of 2011. The said appeal was disposed of on 17.06.2015 on the point of territorial jurisdiction. In the year 2017, Silvassa Commissionerate was merged with Daman Commissionerate on implementation of Goods and Services Tax (GST). After formation of the new commissionerate i.e., the Daman Commissionerate of Central Goods and Services Tax (CGST), the records were transferred to the said commissionerate whereafter the show-cause notices were revived. As a matter of fact, Principal Commissioner *vide* letter dated 11.07.2019 accorded permission to retrieve the show-cause notices from the call book for initiating adjudication proceedings.

11.1. After notice of personal hearing was issued, petitioner sought for time and accordingly time was granted to the petitioner.

11.2. It is contended that the order-in-original has been rightly passed

under section 33 of the Central Excise Act, 1944 and does not suffer from any illegality.

12. An additional affidavit in reply has been filed on behalf of respondent Nos.2, 3, 4 and 5 wherein it is stated that the two show-cause notices were transferred to the call book as the departmental appeal in a similar matter was pending before CESTAT, Mumbai. The said appeal was however disposed of by CESTAT, Ahmedabad on 06.08.2010. Department filed further appeal against the said order of CESTAT, Ahmedabad before the Gujarat High Court which was registered as Tax Appeal No.359 of 2011. The said appeal was disposed of by the Gujarat High Court on 17.06.2015 on the point of territorial jurisdiction. Department did not file any further appeal in view of revised monetary limits for filing of appeals.

13. Learned counsel for the petitioner has strenuously argued that this Court has held in a series of decisions that show-cause notices issued long ago cannot be revived and adjudicated after an unreasonably long delay. In the present case, respondents sought to commence adjudication proceedings 13 years after issuance of the show-cause notices when the matter had become stale. Respondents cannot be permitted to indulge in this kind of activities as this will lead to unsettling settled position. Not content with belated initiation of adjudication proceedings, respondents have tried to circumvent the proceedings before this Court by passing the order-in-original dated 11.11.2019. He has placed reliance on a number of decisions to contend that such action on the part of the respondents is impermissible in law.

14. On the other hand learned counsel for the respondents submits that delay in adjudication was not intentional. The show-cause notices were kept in call book because of pendency of appeal in respect of the petitioner itself before the High Court. After disposal of the High Court appeal, the two show-cause notices were retrieved from the call book

whereafter on permission being granted by the higher authority, adjudication proceedings were commenced. When opportunity of personal hearing was granted to the petitioner, it did not avail the same whereafter the order-in-original was passed on 11.11.2019. Therefore, petitioner cannot argue that the order-in-original was passed by the adjudicating authority in violation of the principles of natural justice. Moreover, now that order-in-original has been passed, petitioner can avail the alternative remedy by challenging the said order before the appellate forum. Writ jurisdiction is not the proper forum for deciding correctness or otherwise of an order-in-original. Therefore, the writ petition should be dismissed.

15. In reply, Mr. Raichandani submits that keeping the show-cause notices in call book or retrieving the same after more than a decade is an internal matter of the respondents. In any event, respondents did not inform the petitioner that the two show-cause notices had been kept in abeyance in the call book because of pendency of appeal and that those would be revived after disposal of appeal. Therefore, the impugned order cannot be justified and is liable to be set aside and quashed.

16. Submissions made by learned counsel for the parties have been considered. Also perused the materials on record.

17. There is no dispute as to the facts. As seen above, the two show-cause notices were issued to the petitioner on 01.06.2006 and 28.11.2006. Petitioner replied to the two show-cause notices on 04.09.2006 and 25.01.2007 respectively. Thereafter there was no communication from the respondents to the petitioner. For about 13 years, the matter remained as it was. After a hiatus of more than a decade, all of a sudden notice dated 13.08.2019 was issued to the petitioner offering personal hearing pursuant to the show-cause notices issued 13 years ago on 01.06.2006 and 28.11.2006. This attempt by the respondents to revive the two show-cause notices and commence

adjudication proceedings after an inordinate delay of 13 years has been questioned by the petitioner in the present proceeding. After filing of the writ petition with copies to the respondents, the order-in-original dated 11.11.2019 has been passed confirming the demand raised in the show-cause notice dated 01.06.2006 and dropping the proceedings pursuant to the second show-cause notice dated 28.11.2006. Respondents in their affidavits have not explained or have not responded to the allegation of learned counsel for the petitioner that the order-in-original was passed after filing of the writ petition and after respondents became aware of the same with a view to frustrate the present proceeding.

18. Question for consideration is whether in the facts and circumstances of the case, such delayed adjudication of the show-cause notices would be just, proper and legal? Ancillary to the above question would be the question as to whether the order-in-original passed pursuant to such adjudication would be legally tenable? Further question which would arise for consideration is whether such an order passed after filing of the writ petition before the High Court questioning the inordinate delay in adjudication would stand the test of reasonableness and legality?

19. Way back in 1983, this Court in *Bhagwan S. Tolani Vs. B. C. Agrawal*, **1983 (12) ELT 44** examined an adjudication proceeding which was started after 11 years of issue of show-cause notice. It was held that a stale matter could not be allowed to be reopened, since to allow it to be reopened would cause serious detriment and prejudice to the petitioner. When the department had contended that there was no limitation in commencing adjudication proceedings, this Court held that if such contentions as to limitation were to be accepted, it would mean that the department can commence adjudication proceedings 10 years, 15 years or 20 years after the original show-cause notice was issued which could not be permitted. The position would have been different had there been any default on the part of the petitioner which contributed to the long

delay. In such a case, petitioner would not be permitted to take advantage of his own wrong but that was not even the case of the department.

20. The above view of this Court has been consistently followed in subsequent cases. In *Sanghavi Reconditioners Private Limited Vs. Union of India*, **2018 (12) GSTL 290**, a Division Bench of this Court examined a challenge to such delayed adjudication. In that case show-cause notice was issued on 28.03.2002 and after more than 15 years, notice of hearing was issued on 07.09.2017. On behalf of the respondents it was contended that the show-cause notice was kept dormant in a call book because of related litigation in the Supreme Court. Ultimately, after the litigation was over, the show-cause notice was retrieved from the call book and notice of personal hearing was issued. It was further contended that this was a procedural aspect and should not be a ground for setting aside adjudication proceedings. In the above backdrop this Court held as follows:-

> "15. With the assistance of Mr. Raichandani and Mr. Jetly, we have perused the Petition and the annexures thereto. We have also perused the consistent view taken by this Court, based on which the judgment in the case of *Lanvin Synthetics Private Ltd.* (supra) was rendered. The obligation on the respondents to adjudicate the show-cause notices with expediency has been repeatedly emphasized. The decisions in the cases of *Shirish Harshavadan Shah vs. Deputy Director, E.D., Mumbai* [2010 (254) Excise Law Times 259] and *Cambata Indus. Pvt. Ltd. Vs Additional Dir. Of Enforcement, Mumbai* [2010 (254) Excise Law Times 269] underline as to how show-cause notices issued decades back cannot be allowed to be adjudicated by the Revenue merely because there is no period of limitation prescribed in the statute to complete such proceedings. The adjudication proceedings serve a definite purpose. The object is to secure and recover public revenue. The larger public interest therefore requires that the Revenue and its officials adjudicate the show-cause notices expeditiously and within a reasonable time. The term 'reasonable time' is flexible enough and would depend upon the facts and circumstances of each case. There is no rigidity or inflexibility, in the sense, a time is prescribed in the judgments of this Court and that is termed as reasonable. Thus, what would be a reasonable time depends upon the facts and circumstances of each case. Surely, a period of 13 years as was found in the case of *Shirish Harshavadan Shah* (supra) and

equally long period in the case of *Cambata Indus. Pvt. Ltd.* (supra) was not termed as reasonable. This Court, relying upon the judgment of the Hon'ble Supreme Court in the case of *Government of India vs Citedal Fine Pharmaceuticals Madras & Ors.*, reported in AIR 1989 SC 1771, held that in absence of any period of limitation, it is settled law that every authority should exercise the power within a reasonable period. What would be the reasonable period would depend upon the facts of each case and no hard and fast rule can be laid down in this behalf.

16. In the case of *Lanvin Synthetics Private Ltd.* as well, the period of 17 long years was found to be entirely unreasonable. Concededly in the present case, the show-cause notice was issued on 28th March 2002. The petitioners forwarded their reply to the show-cause notice after receipt thereof on 14th September, 2002. Concededly, there was a hearing in the year 2004.

17. The first affidavit-in-reply filed in this Petition by the Assistant Commissioner of Customs does not dispute this factual position at all. All that it tries to impress upon the Court is the seriousness of the allegations and prays for an opportunity to adjudicate the issue even now. The affidavit emphasizes that the petitioner has voluntarily deposited a sum of Rs.3,33,37,598.92/-. That was duty liability calculated in the year 1999 and much before the issuance of the show-cause notice. It may be that the amount was not received in full and final settlement of the Department's demand. However, there was an equal obligation, once the show-cause notice was issued on 28th March, 2002, to have adjudicated it expeditiously. The reasons assigned from paragraph 14 onwards would indicate that there were personal hearings in relation to all the notices. There may be voluminous records and there may be number of persons who have allegedly violated the provisions of law. However, the affidavit proceeds to state that there was a personal hearing held on 25th March, 2004. A written brief was submitted by the petitioners and they relied upon the order of the CESTAT in the case of *A.S. Moloobhoy & Sons* (supra). However, the Revenue found that there were adjournments sought but in the meanwhile, the Department/Revenue challenged the judgment of the CESTAT in the case of *A.S. Moloobhoy & Sons* in the Supreme Court of India. Thereupon, all the matters were sent in the dormant list/call book. It may be a procedural aspect for the Department/Revenue. Unless and until the Revenue establishes that there is a law mandating taking cognizance of these procedural requirements or these procedural requirements have been engrafted into the applicable legislation so as to enable the Revenue/Department to seek extension of time, in writ jurisdiction, we are not obliged to take notice of these procedural delays at the end of the Revenue/Department. Accepting that case would defeat the rule

> of law itself. That would also result into taking cognizance of extraneous matters and basing our conclusion thereupon would then mean violating the principles laid down in the binding judgments of this Court and the Hon'ble Supreme Court. That the matters of present nature have to be concluded expeditiously and within a reasonable time. We do not therefore find the explanation from paragraphs 14 to 18 of this affidavit to be enough for granting the Revenue an opportunity to now adjudicate the subject show-cause notice. We have not found from any of these averments and statements in the affidavit that there was a bar or embargo, much less in law for adjudicating the show-cause notice. This Court indulged the Revenue enough and by giving them an opportunity to file an additional affidavit. The additional affidavit as well, does not indicate as to why the Revenue took all these years, and after conclusion of the personal hearing in the year 2004, to pass the final order. Now allowing the Revenue to pass orders on the subject show-cause notice would mean we ignore the principle of law referred above. Secondly, we also omit totally from our consideration the complaint of the petitioner that in a matter as old as of 1999, if now the adjudication has to be held, it will be impossible for them to trace out all the records and equally, contact those officials who may not be in their service any longer. Thus, they would have no opportunity, much less reasonable and fair, to defend the proceedings. That is equally a balancing factor in the facts and circumstances of the present case.
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> 18. In the light of the above discussion, we are of the firm opinion that insofar as the petitioner before us is concerned, the Revenue/Department has not been able to justify its lapse in not adjudicating the show-cause notice issued on 28th March, 2002 for more than 15 years. There may be reasons enough for the Revenue to retain some matters like this in the call book, but those reasons do not find any support in law insofar as the present petitioner's case is concerned. Merely because there are number of such cases in the call book does not mean that we should not grant any relief to the petitioner before us."

21. Firstly, this Court held that a show-cause notice issued a decade back should not be allowed to be adjudicated upon by the revenue merely because there is no period of limitation prescribed in the statute to complete such proceedings. Larger public interest requires that revenue should adjudicate the show-cause notice expeditiously and within a reasonable period. What would be the reasonable period would depend upon the facts and circumstances of each case but certainly a period of 13 years cannot be termed as a reasonable period. Secondly,

regarding keeping the show-cause notice in the dormant list or the call book, this Court held that such a plea cannot be allowed or condoned by the writ court to justify inordinate delay at the hands of the revenue. To accept such a contention would defeat the rule of law itself. Taking cognizance of such an aspect would amount to giving credence to extraneous matters. In any case such a procedure internally adopted by the respondents is not binding on the Court.

22. This position has been reiterated by this Court in *Raymond Limited Vs. Union of India*, **2019 (368) ELT 481 (Bombay)**. That was a case where show-cause notices were issued during the period 2001 to 2004. Adjudication proceedings were sought to be commenced after 14 to 17 years. Again the show-cause notices were kept in dormant list / call book, awaiting final decision in Central Excise Receipts Audit (CERA) audit objection. This Court after referring to various judicial pronouncements took the view that the weight of judicial pronouncements leaned in favour of quashing the proceedings if there had been an undue delay in deciding the same. In the absence of any period of limitation it is incumbent upon every authority to exercise the power of adjudication post issuance of show-cause notice within a reasonable period. This Court referred to the earlier decision in **Sanghavi Reconditioners Private Limited** (*supra*) and held that when the revenue keeps the show-cause notice in call book then it should inform the parties about the same. It serves two purposes - (1) it puts the party to notice that the show-cause notice is still alive and is only kept in abeyance. This would enable the party concerned to safeguard the evidence till the show-cause notice is taken up for adjudication; and (2) if the notices are kept in call book, the parties gets an opportunity to point out to the revenue that the reasons for keeping it in call book are not correct and that the notices should be adjudicated promptly. Thus, informing the parties about keeping the show-cause notice in call book would advance the cause of transparency in revenue administration. It was held as under:-

> "9. In the present facts, it is the case of the petitioner that because of long delay, papers and proceedings relevant to meet the show-cause notice are not available. Thus, seriously hampering the petitioners to appropriately meet the show-cause notice. This delay in taking up the adjudication of the show-cause notice (in the absence of any fault on the part of the party complaining) is a facet of breach of principles of natural justice. It impinges on procedural fairness, in the absence of the party being put to notice that the show-cause notices will be taken up for consideration, after some event and / or time, when it is not heard in a reasonable time. In the absence of the above, particularly as in this case, long delay has resulted in papers being misplaced. The reasonable period may vary for case to case. However, when the notices are being kept in abeyance (by keeping them in the call book as in this case), the Revenue should keep the parties informed of the same. This serves two fold purposes - One it puts the party to notice that the show-cause notice is still alive and is only kept in abeyance. Therefore, the party can then safeguard its evidence, till the show-cause notice is taken up for adjudication. Secondly, if the notices are being kept in the call book for some reason, the party gets an opportunity to point to the Revenue that the reasons for keeping it in call book are not correct and the notices could be adjudicated upon immediately. This is the transparent manner in which the State administration must function.
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> 10. In fact, we note that the above manner of functioning is the objective of the State administration, as our attention has been drawn to the C.B.E. & C. Circular No.1053/2017-CX., dated 10-3-2017. In paragraph 9.4 of the above circular of C.B.E.&C. has directed the officers of the department to formally communicate to the party that the notices which have been issued to them, are being transferred to the call book. This would be expected of the State even in the absence of the above circular; the circular only states the obvious. In this case, the show-cause notices were kept in the call book not at the instance of petitioner, but by the Revenue of its own accord. After having kept it in the call book, no intimation / communication was sent by the Commissioner pointing out that the show-cause notices had been kept in the call book. Thus, bringing it to the notice of the petitioners that the show-cause notices are still alive and would be subject to adjudication after the show-cause notices are retrieved from the call book on the dispute which led to keeping it in the call book being resolved. This, admittedly has not been done by the Revenue in this case."

23. In the present case, it is evident that the delay in adjudication of

the show-cause notices could not be attributed to the petitioner. The delay occurred at the hands of the respondents. For the reasons mentioned, respondents have kept the show-cause notices in the call book but without informing the petitioner. Upon thorough consideration of the matter, we are of the view that such delayed adjudication after more than a decade, defeats the very purpose of issuing show-cause notice. When a show-cause notice is issued to a party, it is expected that the same would be taken to its logical consequence within a reasonable period so that a finality is reached. A period of 13 years as in the present case certainly cannot be construed to be a reasonable period. Petitioner cannot be faulted for taking the view that respondents had decided not to proceed with the show-cause notices. An assessee or a dealer or a taxable person must know where it stands after issuance of show-cause notice and submission of reply. If for more than 10 years thereafter there is no response from the departmental authorities, it cannot be faulted for taking the view that its reply had been accepted and the authorities have given a *quietus* to the matter. As has been rightly held by this Court in **Raymond Limited** *(supra)*, such delayed adjudication wholly attributable to the revenue would be in contravention of procedural fairness and thus violative of the principles of natural justice. An action which is unfair and in violation of the principles of natural justice cannot be sustained. Sudden resurrection of the show-cause notices after 13 years, therefore, cannot be justified.

24. There is one more aspect which we would like to point out. Respondents had not taken any action pursuant to the show-cause notices for long 13 years till issuance of notice for personal hearing on 13.08.2019. After the petitioner approached this Court by filing the present writ petition on 06.09.2019 with due intimation to the respondents, respondent No.3 went ahead and passed the order-in-original dated 11.11.2019. We fail to understand when the respondents could wait for 13 long years after issuance of the show-cause notices, there could not have been any earthly reason to proceed at such great speed and pass the order-in-original before the Court could adjudicate on

the correctness of the action of the respondents. Is it open to the respondents to materially alter the subject matter of the writ petition pending before the Court and then contend that because of such material alteration, the writ petition has become infructuous and that the petitioner should avail the alternative remedy of appeal?

25. In *M/s. Harihar Collections Vs. Union of India*, decided on **15.10.2020**, this Court was confronted with a similar situation when during the pendency of the writ petition, Commissioner of Customs had passed review order on 01.10.2020 under section 129D(2) of the Customs Act, 1962. This Court held as under:-

> "26. When this Court had taken cognizance of the grievance made by the petitioner and was in *seisin* of the matter fixing 06.10.2020 for consideration, it was highly improper on the part of Commissioner of Customs (Import-II) to have passed the order dated 01.10.2020 without any intimation to or taking leave of the Court. It needs no reiteration that when the court, that too the High Court, is in *seisin* of a matter, an administrative or executive authority cannot start a parallel proceeding on the very same subject matter at its own *ipse dixit* and record a finding. It would amount to interfering with the dispensation of justice by the courts. In the instant case, when the Court was set to examine the grievance of the petitioner regarding non-release of the goods despite the order-in-original, what was sought to be done was to present the Court with an order passed in the midst of such examination keeping the Court totally in the dark saying that the order-in-original suffers from illegality or impropriety directing the subordinate authority to apply to the Commissioner (Appeals) to set aside the order-in-original and then contending that the writ petition should be dismissed because of the subsequent development or that the petitioner should be relegated to the appellate forum to contest the subsequent order. As pointed out above, this amounts to interfering with the administration of justice and is thus not at all acceptable. A view may be taken that such an order should be ignored as it is contumacious."

26. The above aspect also requires a serious consideration and therefore has been re-stated. When a matter is brought before the Court or the Court is examining the matter, respondents cannot initiate or proceed with a parallel proceeding on its own to render the court

scrutiny redundant. Such an approach is neither acceptable nor permissible.

27. In any view of the matter when the commencement of adjudication proceedings after inordinate delay of 13 years post-issuance of show-cause notices and submission of reply is held to be untenable in law, any consequential decision or order based on such delayed adjudication would also be rendered invalid.

28. Thus, having regard to the discussions made above and taking an overall view of the matter we have no hesitation to hold that respondents were not justified in commencing adjudication proceeding 13 years after issuance of the show-cause notices dated 01.06.2006 and 28.11.2006. Such adjudication proceeding is therefore, held to be invalid. Consequently, impugned order-in-original dated 11.11.2019 issued by respondent No.3 would also stand interfered with. It is accordingly set aside and quashed.

29. Writ petition is allowed as above. However, there shall be no order as to costs.

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

(ABHAY AHUJA, J.) **(UJJAL BHUYAN, J.)**

Minal Parab