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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 2052 OF 2025 (F)

WITH

WRIT PETITION NO. 2054 OF 2025 (F)

Computer Graphics Private Limited, having its office at Plot No. 1-6, Phase-1, Sancolec Industrial Estate, Zuari Nagar, Goa – 403 726. ... PETITIONER

Versus

1. Union of India, Through the Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi – 110 001.

2. The Assistant Commissioner, office of the Assistant Commissioner of Central Goods & Service Tax, Division-IV, 4th Floor, Blessing Pioneer Commercial Complex, Margao, Goa – 403 601.

3. The Additional Commissioner, office of the Commissioner of Central Excise & Service Tax, Audit-II, Pune Commissioner, No. 41/A, C Wing, Third Floor, Ice House, Pune – 411 001, Maharashtra.

4. The Commissioner, Central Goods and Services Tax (CGST), Goa Commissionerate, 1st Floor, 'C' Wing, Kendriya Shanchivalay, EDC Complex, Patto Plaza, Panaji, Goa – 403 001. ... RESPONDENTS

Mr. Bharat Raichandani (through V.C.) with Mr. Vibhav R. Amonkar and Mr. Raj Chodankar, Advocates for the Petitioner.

Ms. Asha Desai, Standing Counsel for the Respondents.

CORAM: BHARATI DANGRE & ASHISH S. CHAVAN, JJ.

DATED: 8th OCTOBER 2025

ORAL JUDGMENT: (per BHARATI DANGRE, J.)

1. These two Writ Petitions are filed by the Computer Graphics Private Limited, an Assessee, holder of Central Excise Registration Certificate, engaged in the manufacture of excisable goods, namely, photographic color paper, graphic art film and medical X-Ray falling within the purview of Central Excise Tariff Act, 1985

and which has availed CENVAT credit input capital goods and services in relation to the manufacture of their final products in terms of Rule 3 of the CENVAT Credit Rules, 2004.

The Petitioner raise challenge to the delay in adjudication of the two show cause notices issued to it, by filing two Writ Petitions; in Writ Petition No. 2052 of 2025 (F), the show cause cum demand notice is issued on 04.01.2017 whereas in Writ Petition No. 2054 of 2025 (F), the show cause cum demand notice is dated 16.03.2016.

2. The impugned show cause notice dated 16.03.2016, issued for the period from April 2011 to June 2015 allege that the Assessee has contravened the provisions of Section 4(3)(d) of the Central Excise Act, 1944 in as much as it has failed to include the transaction value of such amount of VAT/CST, which though recovered from the buyers instead of being remitted to the Government was retained, under the deferment scheme. Apart from this, the notice also allege violation of Rule 6 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 in as much as it fail to determine the correct value, by not including the additional consideration in form of CST flowing from the buyers to the Assessee which was retained by it.

The show cause notice issued on 04.01.2017 cover the period from July 2010 to March 2011 and exactly identical accusation under Section 4(3)(d) of Central Excise Act, 1944 and

Rule 6 of the Central Excise Rules, 2002 is levelled against the Petitioner.

3. We have heard Mr. Raichandani for the Petitioner, who marked his appearance online along with learned Counsel, Mr. Vibhav Amonkar, who is physically present in the Court and Ms. Asha Desai representing the Revenue.

The objection raised by Mr. Raichandani to the adjudication of the notices issued in the year 2016 and 2017 is based upon abnormal delay in adjudicating the notices and he would place reliance upon catena of decisions of the coordinate Benches, which has quashed adjudication of the show cause notices as they were sought to be adjudicated after a considerable length of time and in particular, reliance is placed upon the decision of this Court in the case of **Sanghvi Reconditioners Pvt. Ltd. Vs. Union of India & Others**¹, to which one of us (Justice Bharati Dangre) is a party.

In addition, he would also place reliance on the decision in case of **ATA Freight Line India Pvt. Ltd. Vs. Union of India**², delivered on 24.03.2020, which has attained finality as a Special Leave Petition filed against this decision is dismissed by the Apex Court on 10.02.2023.

1 2017 SCC Online BOM 9781

2 2022 SCC Online BOM 648

4. Responding to the challenge, the Respondents have filed an affidavit, wherein it is stated that the show cause notices issued to the Petitioner were transferred to the Call Book in terms of the Board's instructions issued vide circulars dated 14.12.1995 and 28.05.2003, where the board has specified certain categories of cases to be transferred, which include the cases in which the Department has gone in Appeal before the appropriate Authority or the cases where injunction has been issued by the Supreme Court/High Court/CEGAT etc.

The Deponent of the affidavit has stated that the issue involved in the show cause notices issued to the Petitioner was directly linked to the pendency of the Civil Appeal before the Hon'ble Supreme Court (Diary No. 24614/2016) in the case of **Union of India Vs. Uttam Galva Steels Limited & Others**³, and hence, it was categorized in clause (ii) of the circular and transferred to Call Book.

A specific stand is adopted that once a case is transferred to Call Book it is not to be adjudicated until the outcome of the connected higher judicial proceedings, though the cases are reviewed every six months by the Commissioner to identify whether the cases are to be removed from the column.

It further stated that by order dated 20.09.2024, the Apex Court pronounced upon the decision in the case of **Uttam Galva Steels Limited** (supra), but the copy of the order is not available,

³ Civil Appeal No. 7272 of 2005 dt. 20.09.2024

but it is learnt that the Apex Court has inadvertently disposed of the case on the ground of monetary limit and in any case, steps are being taken for restoration of the cases that are disposed of.

5. Before we enter into the merits of the case, since a strong objection is raised by Mr. Raichandani as regards the permissibility of adjudicating the show cause notices issued in the year 2016 and 2017 after lapse of 9 and 8 years respectively, we have perused the affidavit in reply filed in the wake of the law laid down by this Court and placed before us.

In **Sanghvi Reconditioners Pvt. Ltd.** (supra), when the Petition sought issuance of writ of mandamus for withdrawing the impugned letter dated 07.09.2017, inviting attention to the show cause notice issued on 28.03.2002, informing the Petitioner that personal hearing is scheduled before the Commissioner of Customs and a challenge was raised to said notice and the ground of delay being raised, after lapse of almost 15 years after the issuance of show cause notice and after 13 years from the last date of hearing.

The Revenue adopted a somehow similar stand as it contended that the matter involved a view taken by the Customs, Excise and Service Tax Appellate Tribunal and on being aggrieved by the said decision, a Civil Appeal was filed before the Apex Court, which remained pending for considerable length of time and only when the Supreme Court rendered its final judgment, the

Department/Revenue decided to adjudicate the notices involving 44 matters in the Call Book. It was also urged that the files remained dormant, but in the wake of the decision of the Supreme Court, they were required to be taken to its logical end. In this background, the Division Bench observed thus:-

“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, 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 259] 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, 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."

6. As far as the stand adopted by the Revenue about the pendency of the matter before the Apex Court, the following observations are recorded:-

"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.

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 28 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.”

With the aforesaid observation, it was held that the show cause notices cannot be adjudicated and they were quashed and set aside.

7. The aforesaid view of the Division Bench was carried forward in **ATA Freight Line India Private Limited** (supra) where the Division Bench once again visited the entire law on the subject, when show cause notice dated 14.10.2014 and 16.03.2016 were sought to be adjudicated after lapse of nearly 10 years from the date of issuance of the first show cause notice and while

coming to the very same conclusion that the so called notices shall not be permitted to be adjudicated, despite a specific stand taken by the Revenue that the Department had filed an Appeal before the Supreme Court which was dismissed on the ground of delay in the year 2019 and since the show cause notices were kept in the Call Book in the wake of the circular issued by the Department, the Division Bench by relying on the decision in case of **Sanghvi Reconditioners Pvt. Ltd.** (supra) as well as all the earlier decisions, reiterating the position of law that the show cause notices issued dated back should not 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 logic behind the same is recorded in the following words:-

“The larger public interest require that the Revenue adjudicate the show cause notices expeditiously and within a reasonable period. It is held that keeping the show cause notices in dormant list or the Call Book, such a plea cannot be allowed or condoned by the writ Court to justify the inordinate delay at the hands of the Revenue.”

This Court was accordingly pleased to quash and set aside the show cause notices which were pending for quite some time.

8. Reliance was also placed on the decision in the case of **The Bombay Dyeing and Manufacturing Company Limited**

Vs. Deputy Commissioner of CGST & CX⁴, where it was held that when a show cause notice is issued to a party, it is expected that the same would be taken to its logical conclusion within a reasonable period so that a finality is reached. If the respondent would have informed the petitioner about the said Show-Cause Notice having been kept in call book in the year 2005 itself, the Petitioner would have immediately applied for appropriate reliefs by filing the appropriate proceedings. It is held that it is not expected from the assessee to preserve the evidence/record intact for such a long period to be produced at the time of hearing of the Show-Cause Notice.

9. It is also further held that the Respondent has issued the Show-Cause notice, it is their duty to take the said Show-Cause notice to its logical conclusion by adjudicating upon the said Show-Cause Notice within a reasonable period of time and in view of gross delay on the part of the Respondent, the Petitioner cannot be made to suffer.

The conclusion in **ATA Freight Line India Pvt. Ltd.** (supra) is specifically found in para 29 as below:-

“29. In our view, since the respondents were totally responsible for gross delay in adjudicating the show cause notices issued by the respondents causing prejudice and hardship to the petitioner and have transferred the show cause notices to call book and kept

4 Writ Petition No. 2874 of 2021 dated 14.02.2022

in abeyance without communication to the petitioner for more than 7 to 11 years, the respondents cannot be allowed to raise alternate remedy at this stage. Be that as it may, no order has been passed by the respondents on the said show cause notices. The question of filing any appeal by the petitioner therefore did not arise.”

10. We do not intend to multiply the authorities on the said point as all the aforesaid authorities cited before us, unequivocally reiterate the position in law that there is no specific period of limitation prescribed for adjudicating the show cause notices, but the Court expect the notices to be disposed of expeditiously and in this case, we find that the show cause notices issued to the Petitioner in the year 2016 and in 2017 are not adjudicated on the ground that they are put in the Call Book, but on account of the pendency of the matter before the Apex Court. What we gather from the affidavit filed by the Respondents is that these proceedings on account of which the show cause notices were put in Call Book itself, were disposed of on 20.09.2024 and more than one year has elapsed, but no steps were taken, which constrained the Petitioner to approach this Court in the month of July 2025.

11. Mr. Raichandani has also placed before us the order passed by the Supreme Court dated 20.09.2024, where it disposed of a bunch of Petitions filed by the Commissioner of Central Excise, which included the case of **Commissioner of Central Tax Vs.**

Uttam Galva Steels Limited (supra), where the learned Additional Solicitor General confirmed that the tax effect in the matters was less than 5 crores and the Appeals were disposed of as it did not upkeep the monetary limit as indicated in the circular dated 06.08.2024 issued by the Revenue Division of the Central Board of Indirect Taxes and Customs, Ministry of Finance.

12. In any case, as we find that the determination of the show cause notices shall defeat its purpose, on account of lapse of time as it will pose difficulty for the Revenue as well as the Assessee to track the necessary material, which will be necessary for effective adjudication and hence, according to us, the show cause notices cannot be adjudicated and are liable to be quashed and set aside only on the ground of gross delay in not adjudicating them, despite lapse of period of 9 and 8 years respectively.

Hence, the Writ Petitions are made absolute by quashing and setting aside the impugned show cause notices.

No order as to costs.

ASHISH S. CHAVAN, J.

BHARATI DANGRE, J.