



MAJESTYLEGAL

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TEAM MAJESTY LEGAL¹

Quashing of Show Cause Notice on the basis of delay in adjudication

[CMA-CGM Agencies (India) Pvt. Ltd. V/s Union of India²]

Hon'ble Bombay High Court in above cited judgment/order under Finance Act, 1994, held that unreasonable delay in conclusion of adjudication proceedings has severely prejudiced assessee. Action on part of a constituent of State has to be with responsibility and not caprice.

OBSERVATIONS OF THE HON'BLE COURT:

- The dispute related to a Show Cause Notice-*cum*-Demand Notice issued to the petitioner, pursuant to an audit conducted for the period 2004-05 to 2007-08.
- Hon'ble Court while relying upon judgment of *Parle International Ltd.*³ and *Sushitex Exports (India) Ltd.*⁴ passed by Hon'ble Bombay High Court wherein it was held that proceedings should be concluded within a reasonable period, if not concluded within a reasonable period, may not be allowed to proceed further.
- The word “reasonable period” calls for a flexible rather than rigid construction having regard to the facts of each case, the respondents have not acted in the manner as required by the law as, they do not have unfettered right to choose a time to conclude the proceedings as per their own whims and fancies.
- Without any satisfactory explanation, delay in adjudication, which ought to be culminated within a reasonable time has not been done and adjudication after an inordinate and unreasonable lapse of time would be detrimental and cause severe prejudice to the Petitioner.

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¹ Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law and statutes and is personal in nature, not to be deemed as legal advice.

² WP No. 1313 of 2021

³ 2021 (375) E.L.T. 633 (Bom.)

⁴ 2022 (380) E.L.T. 244 (Bom.)