

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WP(T) No. 185 of 2023

Bharat Aluminium Company Ltd., Public Limited Company Having Register Office At
1st Floor, Balco Nagar, Korba (C.G.) - 495684

Petitioner

Versus

1. Union Of India Through The Secretary, Ministry Of Finance, Department Of Revenue, North Block, New Delhi - 110001
2. Principal Commissioner CGST And Central Excise, Manik Bagh Palace, Post Box No. 10, Indore - 452014
3. Commissioner Customs And Central Excise, Central Excise Bhavan, Tikrapara, Dhamtari Road, Raipur (C.G.) - 492001

---- Respondents

17.07.2023	<p>Shri Vishal Agrawal, Advocate holding the brief of Shri Gopal Swaroop Gupta, Advocate for the petitioner.</p> <p>Ms. Shruti Parmar, Advocate holding the brief of Shri Ashutosh Singh Kachhwaha, Advocate for respondents No.2 & 3.</p> <p>None for respondent No.1.</p> <p>Issue notice to respondent No.1 on payment of process fee by ordinary as well as registered post mode.</p> <p>Ms. Shruti Parmar, Advocate accepts notice on behalf of respondents No.2 & 3 and prays for four weeks' time to file reply.</p>
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Also heard on I.A. No. 1 of 2023, an application for grant of stay.

Learned counsel for the petitioner would submit that a show-cause notice was issued by respondent No.3 – Commissioner on 5.5.2010 and thereafter, no action was taken; surprisingly, on 28.6.2023, the petitioner has again been noticed to file response/ reply to the show-cause notice issued in the year 2010 under Central Excise Act, 1942.

Learned counsel for the petitioner has placed reliance upon the judgment passed by the High Court of Mumbai in the case of **ATA Freight Line (I) Pvt. Ltd. vs. Union of India**, reported in **(2022) 1 Centax 32 (Bom.)**, in which it is held in paragraph 24 as under:-

“24. This Court in case of Parle International Ltd. (supra) after considering the identical facts and after adverting to the judgment in cases of Bhagwandas S. Tolani (supra), Sanghvi Re-conditioners Pvt. Ltd. (supra) and Reliance Industries Ltd. (supra) held that 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. It is held that keeping the show-cause notice in the dormant list or the call book, such a plea cannot be allowed or condoned by the writ court to justify 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 quite some time.”

The above judgment has been affirmed by the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No.828 of 2023. It is held in the matter of **ATA Freight Line (I) Pvt. Ltd.** (supra) 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.

Taking into consideration the submission made by the learned counsel for the petitioner, there shall be stay of effect and operation of notices dated 5.5.2010 and 28.6.2023.

Registry is directed to publish the name of Shri Ashutosh Singh Kachhwaha, counsel for respondents No.2 & 3 in the cause-list.

Sd/-

(Rakesh Mohan Pandey)
Judge