

(2015) 08 BOM CK 0342
In the Bombay High Court
Case No : Writ Petition No. 11309 of 2014

S2 Infotech (P.) Ltd.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 31-08-2015

Acts Referred:

Citation : (2015) 52 GST 698

Hon'ble Judges : S.C. Dharmadhikari and B.P. Colabawalla, JJ.

Bench : Division Bench

Advocate : Bharat Raichandani and Mahesh Raichandani, for the Appellant;
Vijay Kantharia and Neelesh V. Kalantri, for the Respondent

Judgement

1. We have heard both sides. There is a compliance of the direction issued earlier. The In-charge Chief Commissioner of Service Tax, Mumbai and holding the substantive post of Member, Central Board of Excise and Customs filed a detailed affidavit in reply. We accept each of the assurances he has given on oath as undertakings given to this Court. We also direct him to take note of any additional material including the details of cases pending on the file of the Service Tax Commissionerate, Mumbai. In the present case, a show cause notice issued on 23rd January, 2009 has been adjudicated by the order-in-original dated 23rd May, 2014. The inordinate and unexplained delay alone is enough to vitiate the impugned order. The law laid down in the case of Anil Rai v. State of Bihar [2009] 13 STR 465 (SC) in respect of early disposal of the proceedings is undisputed. Therefore, on this short ground alone we can set aside the impugned order. Accordingly, we quash and set aside the same. The show cause notice can be adjudicated afresh and in accordance with law within a period of 30 days from the date of appearance or date of conclusion of arguments. We take the later date as the time or date from which the period will began to run. The Petitioner shall appear before the adjudicating authority on 15th September, 2015. The adjudicating authority shall endeavor to abide by the directions issued by this Court and conclude the proceedings. While concluding the same, it should not be

influenced by the earlier order or any observations or findings therein. All contentions on merits of the notice are kept open. The Petition is allowed in these terms. No costs.