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WPA 9183 of 2023

M/s. Sudera Realty Private Limited
Vs
Union of India & Ors.

Mr. J.K. Mittal,
Mr. Paritosh Sinha,
Mr Amitava Mitra,
Mr. Subhadip Banerjee
... For the Petitioner.

Mr. K.K. Maity,
Ms. Ekta Sinha
... For the CGST Authority.

Mr. Siddhartha Lahiri
... For the UOI.

Affidavit-of-service filed in court be kept with the record.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned show-cause-cum-demand notice dated 23rd December, 2020, under Section 73 of the Finance Act, 1994 read with Section 174 of the CGST Act, 2017 by filing this writ petition on 13th April, 2023 i.e. almost after 2 years and 4 months and it appears from record that the petitioner has filed its reply against the impugned show-cause-notice on 5th February, 2021, which is still pending and has not been finally disposed of. I am constrained to observe the conduct of the Commissioner of CGST and CX, Kolkata South Commissionerate, for his lethargic attitude in sitting over the reply to the impugned show-cause-notice and not disposing of the same till date for the reasoned

best known to him and allowing the impugned proceeding to become time barred for the benefit of the petitioner and to harm the interest of the revenue. Such conduct of the Commissioner concerned is highly deprecable. There is a serious lapses on the part of the petitioner also in challenging the impugned show-cause-notice after the expiry of 2 years and 4 months. If according to the petitioner the impugned show-cause-notice was without jurisdiction or bad in law it could have challenged the same immediately instead of waiting for so long in approaching this writ court.

Considering the conduct of the petitioner in approaching this writ court after an inordinate delay and making attempt to take advantage of lapse of the the Commissioner concerned in not finally adjudicating the impugned show-cause-notice and allowing the petitioner to take advantage of his conduct by allowing the impugned proceedings to become time barred as alleged by the petitioner, this writ petition being WPA 9183 of 2023 is dismissed.

However, dismissal of this writ petition will not be a bar on the part of the Commissioner concerned to dispose of the pending show-cause-notice in accordance with law and by passing a reasoned and speaking order after giving an opportunity of hearing to the petitioner or its authorised representative within

a period of four weeks from the date of communication of this order.

Mr. Maiti, learned Advocate appearing for the respondent/CGST Authority shall forward a copy of this order to the Chief Commissioner of CGST, who will take note of the conduct of the Commissioner concerned and hold enquiry and fix the responsibility for such lapse in concluding the impugned proceeding subsequent to the impugned show-cause-notice within the statutory period. Chief Commissioner of CGST shall conclude such enquiry and take final decision as per service Rule within eight weeks from the date of communication of this order.

(Md. Nizamuddin, J.)