IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 637 OF 2024

Hindustan Petroleum Corporation Ltd. ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

AND
WRIT PETITION NO. 638 OF 2024

Hindustan Petroleum Corporation Ltd. ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

AND
WRIT PETITION NO. 639 OF 2024

Hindustan Petroleum Corporation Ltd. ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

Ms. Padmavati Patil with Mr. Kiran Chavan i/b. Cenex Legal LLP for the Petitioner.
Ms. Shruti Vyas, Addl. G. P. with Mr. Aditya Deolekar, AGP for the State.
Mr. Sandeep Ghaterao, for Respondent/NMMC.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.
DATE: 22 APRIL 2026.

Oral Judgment (Per G. S. Kulkarni, J.) :-

Writ Petition No. 637 of 2024

1. Rule returnable forthwith. Respondents waive service. By consent of the parties, heard finally.

2. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:-

"(a) that this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction under Article 226 of Constitution of India, calling for the records of the case and after going into the question of legality and propriety thereof, be pleased to hold that the Assessment Order dated 21.08.2023 passed by the Cess Officer (Respondent No.3) after a lapse of three years from the end of the year, i.e. on or before 31.03.2014, is barred by limitation as per Rule 25(5) of the Cess Rules;

(b) that this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction under Article 226 of Constitution of India, calling for the records of the case and after going into the question of legality and propriety thereof, be pleased to hold that the Assessment Order dated 21.08.2023 passed by the Cess Officer (Respondent No.3) after a lapse of ten years from the date of issue of notice in Form-H is barred by limitation as has been held by this Hon'ble Court in the case Siemens Limited;

(c) that this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction under Article 226 of Constitution of India, calling for the records of the case and after going into the question of legality and propriety thereof, be pleased to hold that the Cess liability was assessed erroneously, without considering and appreciating various evidences like monthly Returns, annual statement, etc. and be pleased to quash and set aside the impugned Assessment Order dated 21.08.2023 passed by the Cess Officer (Respondent No.3);

d) that this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction under Article 226 of Constitution of India, calling for the records of the case and after going into the question of legality and propriety thereof, be pleased to direct the Cess Officer (Respondent No.3) to reassess the Cess dues, if any, after considering and adjusting the Cess liability on the quantum of petroleum products exported out of NMMC area;

(e) that, as an alternative, this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction under Article 226 of Constitution of India, calling for the records of the case and after going into the question of legality and propriety thereof, be pleased to permit the Petitioner to file an appeal under Section 406 of MMC Act, within a reasonable time, and direct the Appellate Authority to hear and decide such appeal without insistence for deposit of any tax confirmed, under Section 406(8) of MMC Act;

(f) that this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction under Article 226 of Constitution of India, calling for the records of the case and after going into the question of legality and propriety thereof, be pleased to direct the Cess Officer (Respondent No.3) not to take any recovery proceedings till final disposal of this Petition by this Hon'ble Court."

3. The primary contention of the petitioner is on the delayed adjudication of the show cause notice, which resulted in the passing of the impugned assessment order dated 21 August 2023. At the outset, it is necessary to note that a co-ordinate Bench of this Court (A.S. Chandurkar, J. (as His Lordship then was) and Mr. M. W. Chandwani, J.) in **Siemens Limited V/s. The State of Maharashtra & Ors**. in Writ Petition No. 3124 of 2020, has already decided the issue raised by the petitioner in the present petition by judgment dated 03 May 2023, against the very same respondent-Municipal Corporation. Such position was pointed out to the Court when both the proceedings were listed before a co-ordinate Bench of this Court, of which one of us (G. S. Kulkarni, J.) was a member, on 04 March 2024, when the following order was passed:-

> " The Petitioner has placed on record a decision of the Co-ordinate bench of this Court in the case of Siemens Limited v/s. State of Maharashtra (Writ Petition No. 3124 of 2020) decided on 3rd May, 2023 along with other batch of Petitions.
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> 2 The learned Sr. Counsel for the Respondent- NMMC would submit that the relief as sought in the present Petitions would clearly stand covered by the said decision.
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> 3 Mr. Sakhare would contend that Review Petition has been filed and the same would be taken up by the Review Bench on 12th March, 2024.
>
> 4 Stand over to 18th March, 2024 – HOB."

4. We find from the subsequent orders that the proceedings were adjourned on the ground that a review petition had been filed by the respondent-Navi Mumbai Municipal Corporation (for short, "**Corporation**"), seeking review of the judgment and order passed in Siemens Limited (supra). Learned counsel for the parties have placed before the Court the order dated 12 February 2026 passed by

a co-ordinate Bench of this Court (B. P. Colabawalla & Firdosh P. Pooniwalla, JJ.) on Review Petition No. 23 of 2024, whereby the review petition was considered on merits and rejected. Thus, the decision in **Siemens Limited** (supra) is fully binding on the respondent-Corporation, and the contention that the present petition should not be proceeded with on the ground that a review petition is pending is not tenable. Accordingly, we have heard learned counsel for the parties.

5. The facts lie in a narrow compass:- The petitioner-Hindustan Petroleum Corporation Ltd., a Public Sector Undertaking, cleared petroleum products from its refinery to the Vashi Terminal, which is located within the municipal jurisdiction of the respondent-corporation, through a pipeline. During the period from April 2010 to March 2011, the petitioner filed monthly returns as well as an annual statement, providing all requisite details, including the quantity and value of goods exported outside the municipal area, on which 90% of the cess was not payable.

6. On such backdrop, on 24 August 2011, a notice (Form – H), being a show cause notice, was issued to the petitioner by the Cess Officer, calling for certain documents and proposing to complete the assessment on a best judgment basis. The petitioner responded to the said notice vide letter dated 09 September 2011, submitting the annual statement along with all requisite details. However, for a period of almost nine years thereafter, no further action was taken by the Cess Officer. It was only on 18 July 2023 that the Cess Officer once again requested the petitioner to submit certain documents and informed that a personal hearing

would be granted. The petitioner responded by seeking an extension of time, contending that there had already been an inordinate delay and that as per the petitioner, all the requirements had been duly complied with.

7. It is on such backdrop, it appears that the Cess Officer proceeded to pass the impugned assessment order (Form-I) dated 21 August 2023. According to the petitioner, the said order was issued without considering the quantum/value of goods exported outside the municipal jurisdiction, in respect of which 90% of the cess was not payable, in regard to which the monthly returns were furnished along with annual statement. Also on the even date, the Cess Officer also issued a Demand Notice (Form-J), calling upon the petitioner to pay the erroneously confirmed and exorbitant cess liability.

8. In these circumstances, the present petition is filed *inter alia* contending that under sub-rules (5) and (7) of Rule 25 of the Cess Rules, it was mandatory for the Commissioner to complete the assessment within three years from the end of the year in which the relevant period occurred. It is submitted that the impugned assessment order for the financial year 2010-11 is barred by limitation. In support of this contention, Ms. Patil, learned counsel for the petitioner, has drawn our attention to the decision of the co-ordinate Bench of this Court in **Siemens Ltd.** (supra).

9. In **Siemens Ltd.** (supra), the Division Bench, considering the purport of Rule 25 (3) and (4) of the Cess Rules 1996, held that, it could not have been intended that the assessment proceedings remain pending for a period of 10 years

from the date of issuance of the initial notice in Form-H. It was held that the process of assessment was accordingly liable to be quashed on the ground of unreasonableness and failure to complete the assessment for no justifiable reason. The relevant observations in that regard are required to be noted which read thus:-

> "15. We may note that in a recent decision in ATA Freight Line (I) Pvt. Ltd. Versus Union of India & Others [2022(3) BCR 20] after considering various earlier decisions on the question of belated adjudication of a show cause notice, the Division Bench held that non-adjudication of the show cause notice for a period of about ten years resulted in causing prejudice to the said petitioners. The Court proceeded to quash the said show cause notices.
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> 16. The communication dated 07.01.2020 issued by the Assessing Authority of the Municipal Corporation reveals that it was of the view that the period of three years mentioned in Rule 25 of the Rules of 1996 was for initiation of the assessment proceedings and not for passing the assessment order. Even accepting this position that the period of three years is for initiation of the assessment proceedings and the present assessment proceedings for each year has commenced within the prescribed time by issuance of notice in Form-H, the same cannot mean that since no period of limitation is prescribed for completing the assessment, the same can be completed at any point of time. The assessment proceedings are required to be completed within a reasonable time keeping in view the spirit of Rule 25 of the Rules of 1996 when read as a whole. It was also urged on behalf of the Municipal Corporation that on account of the pandemic situation the assessment proceedings could not be completed. It is to be noted that even if the period from 01.03.2020 to 28.02.2022 is excluded from consideration the same would not make much difference for the reason that the reminder in Form-H was given on 24.09.2019 and nothing precluded the Municipal Corporation from completing the assessment till the onset of the pandemic situation. Another reason orally put forth by the Municipal Corporation is the pendency of the proceedings with regard to the demand for cess under Rule 35(1) of the Rules of 1996 as well as challenge to Rule 41 of the Rules of 1996, Writ Petition No. 8506 of 2016 alongwith other writ petitions [M/s Super Label Manufacturing Co. Versus The State of Maharashtra & Others]. The said writ petition came to be dismissed on 29.07.2016 by the Division Bench. The aforesaid decision was challenged before the Hon'ble Supreme Court and while granting leave on 06.02.2017 it was directed that the Municipal Corporation would not take any coercive steps against the Members of the Small Scale Entrepreneurs Association for recovery of any interest or penalty under Rule 41 of the Rules of 1996. The pendency of these proceedings is hardly relevant so as to prevent the Commissioner from completing the process of assessment. Rule 41 of the Rules of 996 pertains to recovery of interest or penalty which is a stage subsequent to completion of assessment. Though such justification for non-completion of the assessment has not been put forward in the

reply filed by the Municipal Corporation, since it was orally put forth as a justification for pendency of the assessment, we have considered the said submission.

17. We thus find from the aforesaid that it is necessary for the Municipal Commissioner to complete the assessment under Rule 25(3) of the Rules of 1996 either on the date specified in the notice issued in Form-H or as soon as may be thereafter on the basis of evidence produced by a registered dealer. On failure of a registered dealer to comply with the terms of notice issued under Rule 25(3) of the Rules of 1996, the Commissioner has to assess to the best of his judgment the amount of cess due under Rule 25(4) of the Rules of 1996. Since assessment has to be undertaken at any time within three years from the end of the year in which the relevant period occurs as per Rule 25(5) of the Rules of 1996 if a dealer does not furnish any returns or on failure to apply for registration under Rule 25(7) of the Rules of 1996, it becomes clear that though there is no outer period fixed for completing such assessment, the same has to be completed within reasonable period. In the facts of the present case, the assessment has not been completed for a period of almost ten years from issuance of the initial notice in Form-H. The completion of assessment proceedings having been unnecessarily delayed by the Municipal Commissioner and there being no basis to hold that the Corporation is required to wait endlessly for the dealer to produce further documents despite having produced such documents on which it wanted to rely, it is held in the facts of the present case that failure to complete the assessment for a period of more than ten years from issuing the initial notice in Form- H amounts to continuing the assessment for an unreasonable period thus rendering such assessment liable to be quashed.

18. It is also to be noted that the reminder in Form-H dated 24.09.2019 issued to the dealer in all the writ petitions required the dealer to appear before the Local Body Tax Officer for the purposes of assessment under Rule 33 of the Maharashtra Municipal Corporations (Local Body Tax) Rules. It is to be noted that the Dealer had filed returns under Rule 25(1) of the Rules of 1996. The demand of cess was in view of the provisions of Section 152A of the Act of 1949. Entire Chapter XIA of the Act of 1996 with regard to the provisions that related to levy, calculation and recovery of cess in lieu of Octroi came to be deleted by Maharashtra XLII of 2017. This deletion took effect from 01.07.2017. Instead of assessing the cess in terms of Rule 25 of the Rules of 1996 the Municipal Corporation through its Local Body Tax officer sought to invoke Rule 33 of the Local Body Tax Rules. Issuance of the said reminder on 24.09.2019 thus indicates non-application of mind to the relevant facts inasmuch as what was under consideration was the assessment of cess and not local body tax. The dealer having filed return under Rule 25 of the Rules of 1996, the assessment thereof was liable to be completed under the Rules of 1996. Recourse to the Local Body Tax Rules was totally unjustified. While it is true that quoting a wrong provision of law would not in a given case vitiate the proceedings if the Authority issuing the notice otherwise had authority to do so, the same however would clearly indicate absence of due application of mind to the material facts that were available on record. The aforesaid would thus indicate that even while issuing the reminder on 24.09.2019 the Municipal Corporation was not diligent in the matter and undertook

> recourse to Rule 33 of the Local Body Tax Rules instead of Rule 25 of the Rules of 1996.
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> 19. We thus hold that failure to complete the process of assessment under Rule 25(3) and (4) of the Rules of 1996 for a period of more than ten years from the date of issuance of the initial notice in Form-H would render the process of assessment liable to be quashed on the ground of unreasonableness and failure to complete the assessment for no justifiable reason. On that basis the assessment for the period from 01.04.2008 to 31.03.2009, 01.04.2009 to 31.03.2010, 01.04.2010 to 31.03.2011, 01.04.2011 to 31.03.2012 has not been completed within the aforesaid period of ten years which we have found to be reasonable period for completion of assessment. The Commissioner was not precluded from completing the assessment either in terms of Rule 25(3) of the Rules of 1996 by treating the documents produced by the Dealer as the only documents on which the Dealer relied in support of his returns or under Rule 25(4) of the Rules of 1996 when the Dealer failed to submit any further documents pursuant to the notice in Form-H being issued to him. The period of ten years has been reckoned from the date of issuing the initial notice in Form-H and these notices have not been adjudicated even till the hearing of the writ petitions even in the absence of any order interdicting such adjudication."

10. Learned counsel for the petitioner has also submitted that, by drawing our attention to other judgments, including **Coventry Estates Pvt. Ltd. vs. Joint Commissioner CGST and Central Excise**[1], although rendered in the context of the CGST Act, as well as the decision in **UPL Limited. vs. The Union of India** in Writ Petition No. 3063 of 2021decided on 22 August, 2023, a similar view has been taken. In **Coventry Estates Pvt. Ltd.** (supra), the Court, after considering a catena of judgments and the consistent view taken by the Supreme Court in such decisions, made certain relevant observations which are required to be noted, which read thus:-

> "18. An inordinate delay is seriously prejudical to the assessee and the law itself would manifest to weed out any uncertainty on adjudication of a show cause notice, and that too keeping the same pending for such a long period itself is not what is conducive.
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> 19. It is well said that time and tide wait for none. It cannot be overlooked that the pendency of show cause notice not only weighs against

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the legal rights and interest of the assessee, but also, in a given situation, it may adversely affect the interest of the revenue, if prompt adjudication of the show cause notice is not undertaken, the reason being a lapse of time and certainly a long lapse of time is likely to cause irreversible changes frustrating the whole adjudication.

20. We are also of the clear opinion that a substantial delay and inaction on the part of the department to adjudicate the show cause notice would seriously nullify the noticee's rights causing irreparable harm and prejudice to the noticee. A protracted administrative delay would not only prejudically affect but also defeat substantive rights of the noticee. In certain circumstances, even a short delay can be intolerable not only to the department but also to the noticee. In such cases, the measure and test of delay would be required to be considered in the facts of the case. This would however not mean that an egregions delay can at all be justified. This apart, delay would also have a cascading effect on the effectiveness and/or may cause an abridgement of a right of appeal, which the assessee may have. Thus, for all these reasons, delay in adjudication of show cause notice would amount to denying fairness, judiciousness, non-arbitrariness and fulfillment of an expectation of meaningfully applying the principles of natural justice. We are also of the clear opinion that arbitrary and capricious administrative behaviour in adjudication of show cause notice would be an antithesis to the norms of a lawful, fair and effective quasi judicial adjudication. In our opinion, these are also the principles which are implicit in the latin maxim "lex dilationes abhorret", l.e., law abhors delay.

21. In such context as to how the Courts have dealt with similar situations can be seen from some of the significant decisions on the issue. In Sushitex Exports (India) Ltd. (supra), a Division Bench of this Court was dealing with a case in which a show cause notice was issued on 30 April, 1997, which was not adjudicated till the petitioners filed the writ petition in the year 2020. In such context, the Court while allowing the petition, observed that the law is well settled that when a power is conferred to achieve a particular object, such power has to be exercised reasonally, rationally and with objectivity. It was observed that it would amount to an arbitrary exercise of power if proceedings initiated in 1997 are not taken to their logical conclusion even after a period of over two decades. The Court agreed with the view taken in Parle International Ltd. (supra) that the proceedings should be concluded within a reasonable period, and if the proceedings that are not concluded within reasonable period, the Court considering such facts, may not allow the proceedings to be carried any further. Referring to the contentions on behalf of the respondent that the respondent should be granted the liberty to conclude the proceedings, it was observed that except for the petitioners who had approached the Court to have the impugned show-cause notice set aside invoking the writ jurisdiction of the Court of this Court, the show cause notice would have continued to gather dust. The Court observed that the petitioners, in such circumstances, cannot possibly be worse off in seeking a constitutional remedy and thereby suffer an order to facilitate conclusion of the proceedings, which was most likely to work out prejudice to them. The following are the observations as made by the Court:

> "15. We are also not persuaded, at this distance of time, to agree with Mr. Jetly that the respondents should be granted liberty to conclude the proceedings. It is the petitioners who have approached the Court

to have the impugned show- cause notice set aside. Had the petitioners not invoked the writ jurisdiction of this Court, the show-cause notice would have continued to gather dust. The petitioners, in such circumstances, cannot possibly be worse off for seeking a Constitutional remedy and thereby suffer an order to facilitate conclusion of the proceedings which, because of the inordinate delay in its conclusion, is most likely to work out prejudice to them.

16. Article 14 of the Constitution of India is an admonition to the State against arbitrary action. The State action in this case is such that arbitrariness is writ large, thereby incurring the wrath of such article. It is a settled principle of law that when there is violation of a Fundamental Right, no prejudice even is required to be demonstrated."

22. In Bombay Dyeing and Manufacturing Company Limited v. Deputy Commissioner of CGST and CX, DIV-IX, Mumbai Central GST Commissionerate 2022 (382) E.L.T. 206(Bom.), a co-ordinate Bench of this Court observed on the prejudice which would be caused to the assessee if for a long period the show cause notice is not adjudicated. It was held that belated hearing of the show cause notice would amount to violation of principles of natural justice. Following are the observations of the Court:

"10. 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. The respondent having 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. In view of the gross delay on the part of the respondent, the petitioner cannot be ade to suffer. The law laid down by the Division Bench of this Court in the case of Parle International Limited (supra), applies to the facts of this case. We do not propose to take any different view in the matter. Hearing of show-cause notice belatedly is in violation of natural justice."

23. In ATA Freight Line (I) Pvt. Ltd. (supra), a Division Bench of this Court considering the decisions in Parle International Ltd. (supra), Bhagwandas S. Tolani v. B.C. Aggarwal & Ors. 1983 (12) E.L.T. 44 (Bom.) and Reliance Industries Ltd. (supra) held that a show cause notice issued a decade 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 relevant observations of the Court are required to be noted, which reads thus:

"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 Reconditioners Pvt. Ltd. (supra) and Reliance Industries Ltd. (supra) held that that a showcause 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.

25. In case of Sushitex Exports India Ltd. (supra), Division Bench of this Court was pleased to quash and set aside the show cause notices which remained pending for adjudication from 1997. This Court considered the fact that though the petitioner therein was called for hearing in the year 2006, no final order was passed immediately after hearing was granted to the petitioner. It is held that the respondents seem to have slipped into deep slumber thereafter. This Court while quashing and setting aside the show cause notices which were not decided after long delay was pleased to grant consequential relief to the petitioner therein by directing the respondents to return the amounts paid by the petitioner under protest during the course of investigation with interest @ 12% p.a.

26. This Court in case of The Bombay Dyeing and Manufacturing Company Limited Vs. Deputy Commissioner of CGST & CX (supra) after adverting to the judgment in cases of Parle International Ltd. v. Union of India (supra) and Reliance Industries Ltd. Vs. Union of India (supra) has 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.

27. It is held that the respondent having issued the Show-Cause notice, it is their duty to take the the said Show-Cause notice to its logical conclusion by adjudicating upon the said Show-Cause Notice within a reasonable period of time. In view of gross delay on the part of the respondent, the petitioner cannot be made to suffer. This Court accordingly was pleased to quash and set aside dated 16th September 2005 in that matter. The principles of law laid down by this Court in the above referred judgment would apply to the facts of this case. We are respectfully bound by the principles of law laid down by this Court in the said judgment. We do not propose to take a different view in the matter.
28…..

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 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.'

11. In **UPL Ltd.** (supra), a similar view has been taken by the Court, which also referred to the decision in case of **Coventry** (supra).

12. In this view of the matter, it is clear that in the present case, apart from the breach of the mandate of Rule 25 of the Cess Rules, the law otherwise would also not permit the respondent/corporation to pass the impugned order. The said order was passed after a period of 10 years from the issuance of the notice (Form-H) dated 24 August 2011. The petition thus needs to succeed. Rule is made absolute in terms of prayer clauses (a) and (b).

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13. Both these petitions would also stand covered by the aforesaid order passed by us as admittedly, in these petitions also the assessment order was passed after the delay of more than 10 years. These petitions are also accordingly allowed in the similar terms as in Writ Petition No.637 of 2024.

14. In Writ Petition No. 639 of 2024, the notice (Form-H) is dated 15 June 2012 on which assessment order was passed on 23 August 2023 and in Writ Petition No. 638 of 2024, the notice is dated 01 June 2013 on which the assessment order was passed on 25 August 2023 which is again beyond the period of 10 years. Thus, these petitions are also required to be disposed of in the aforesaid terms following the decision in **Siemens** (supra). Hence, both these petitions are accordingly allowed. No costs.

(AARTI SATHE, J.) **(G. S. KULKARNI, J.)**