

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 758 OF 2015
IN
CENTRAL EXCISE APPEAL (L) NO. 122 OF 2008**

The Commissioner of Central	}	
Excise, Pune – III	}	Appellant
versus		
M/s. RSB Transimissins (I) Ltd.	}	Respondent

Mr. Jitendra B. Mishra for the Appellant.
None for the Respondent.

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.**

DATED :- OCTOBER 12, 2015

P.C. :-

This Notice of Motion is seeking condonation of 2190 days' delay in moving the present application. The present application seeks to set aside an order dated 27th February, 2009 of the Prothonotary and Senior Master of this Court. This order is passed under Rule 986 of the Bombay High Court (Original Side) Rules. Such an order is passed essentially because the office objections are notified in advance. Yet, the Appellant and its Advocates are negligent or did not take steps to comply with the office objections or remove them in time. That is why the dismissal without any adjudication, but under Rule 986 of the Rules.

2) We have found that when this Rule was invoked and applied in case of other proceedings, the Prothonotary and Senior Master would entertain applications from parties and their Advocates and order restoration of the Appeals himself. However, the understanding and proper is that he has no such power and to entertain such applications and decide them. The delay in this case is not deliberate or intentional as explained in the affidavit in support. It is inadvertent and because of work pressure. There is no affidavit in reply. The cause shown in paras 3 and 4 of the affidavit in support is genuine. In such circumstances, the delay is condoned. The Notice of Motion is made absolute in terms of prayer clauses (a) and (b).

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)