IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 444 OF 2016
IN
CUSTOMS APPEAL NO. 39 OF 2012

APAR INDUSTRIES LTD. ...Applicants
In the matter between

APAR INDUSTRIES LTD. ...Appellants.
Versus
COMMISSIONER OF CUSTOM (EXPORTS) ...Respondent

Mr.Prakash Shah with Ms.Bhairavi Pathak, Ms.Neelam Patel i/b. M/s.I.R.Joshi & Co., for the Appellants/Applicants.

Mr.Pradeep S.Jetly, for the Respondent.

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CORAM : S.C. DHARMADHIKARI &
G.S. KULKARNI, JJ.

DATED : 4th APRIL,2016

P.C.:

1. We have heard both sides on the Notice of Motion which is for interim stay of the order under challenge.

2. Mr.Shah, learned Counsel appearing on behalf of the Appellants submits that the duty amount has already been paid, there is

a corporate guarantee in the sum of Rs.1,25,03,438/- and which is continuing till date. The Tribunal has confirmed the penalty and redemption fine, but bearing in mind the view taken by the Tribunal in similar cases and subsequently, according to Mr.Shah, this part of the impugned order is required to be stayed unconditionally.

3. This request is opposed by Mr.Jetly, learned Counsel appearing for the Revenue. He would submit that the appeal is admitted on substantial question of law and at that time the stay was not sought and in the above terms.

4. After having heard both sides and finding that now the Revenue seeks to recover the amount and has addressed the notice at page 13 in that behalf, the interest of justice would be served if the balance amount of redemption fine is deposited with the Revenue and a Bank Guarantee of a Nationalised Bank equivalent to 50% of the penalty amount is furnished in favour of the Respondent. That be done within a period of four weeks from today.

5. If these conditions are complied with, there will be an interim stay of the order impugned in this appeal and which will be operative till

the hearing and final disposal of the appeal. For a period of four weeks from today and in order to comply with these conditions, the Revenue shall not take any coercive measures.

6. The Notice of Motion is disposed of.

[G.S. KULKARNI, J.] [S.C.DHARMADHIKARI, J.]