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

CUSTOMS APPEAL NO. 84 OF 2015

M/s. Ramchandra Carpet Palace	}	**Appellant**
versus		
The Commissioner of Customs	}	
(Preventive)	}	**Respondent**

Mr. H. R. Shetty i/b. M/s. H. R. Shetty and Co. for the appellant.

Mr. Pradeep S. Jetly with Mr. Jitendra B. Mishra for the respondents.

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

DATED :- MARCH 20, 2017

P.C. :-

1 We have heard Mr. Shetty appearing for the appellant. The appellant appealed to the tribunal against the order-in-original. At the relevant time, it was known to the appellant that if it intends to obtain a stay of recovery pending such appeal, then, it has to make an application so as to dispense with the pre-condition and waive the same. Else, the demand as confirmed in the order-in-original dated 31st January, 2008 could have been enforced. That is how an application for stay was made and which came to be decided on 15th May, 2009. After hearing both sides, the tribunal made an order, which, to our mind, is fair, just

and proper. The tribunal took into consideration the facts and circumstances as also the plea of financial hardship. The tax is confirmed and the demand in relation thereto was to the tune of Rs.12,72,333/- and penalty of Rs.1,50,000/-. The appellant was directed to deposit a sum of Rs.5 lakh in addition to Rs.1 lakh, which were claimed to have been deposited. This order of 15th May, 2009 was sought to be modified by making an application styled as Miscellaneous Application No. 1426 of 2009. Upon that application as well, the tribunal heard the appellant and its advocate. It refused to waive that condition by finding the application to be not bonafide. However, it extended the time to make compliance with that order or condition of deposit of Rs.5 lakh. The appellant before us was aware of the extension and sought benefit thereof. In the extended time as well, the amount was not deposited. Hence, on 26th April, 2010, the appeal itself was dismissed for want of compliance.

2 We do not think such an order of the tribunal, which is imminently fair, just and proper, raises any substantial question of law. The appeal is devoid of merits and it is dismissed.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)