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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.1891 OF 2016 IN
CENTRAL EXCISE APPEAL NO.99 OF 2009

The Commissioner of Central
Excise Pune-II Commissionerate ...Applicant
vs.
M/s.Menon Pistons Ltd. ...Respondent

Mr.Pradeep Jetly a/w Mr.J.B.Mishra for the applicant
None for the respondent

CORAM : A.S.OKA, &
RIYAZ I. CHAGLA,JJ.
DATE : AUGUST 14, 2017

P.C.:

1 Heard the learned counsel for the applicant/appellant. The Notice of Motion No.4106 of 2009 taken out by the applicant has been dismissed on account of non compliance with the order dated 12th October 2015. By the order dated 12th October 2015, Notice of Motion No.4106 of 2009 was restored subject to condition of the applicant removing all office objections in the Notice of Motion. As the office objections have not been removed within the time stipulated by the order dated 12th October 2015 passed in the Notice of Motion No.4106 of 2009, the suit was dismissed for non prosecution. We have perused the affidavit in support of the Notice of Motion. In view of the averments made in the paragraphs 5 and 6 of the affidavit in support, a case for restoration is made

out. Accordingly, we pass the following order:

- (I) Notice of Motion is made absolute in terms of prayer clauses (a) and (b) subject to condition of the applicant removing all office objections in the Notice of Motion No.4106 of 2009 within a period of three weeks from today. If office objections are not removed within stipulated period, the order of dismissal for non prosecution shall stand;
- (II) If compliance is made within stipulated period, the Notice of Motion No.4106 of 2009 shall be placed on board on 18th September 2017.

(RIYAZ I. CHAGLA,J.)

(A.S.OKA,J.)