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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.1113 OF 2017 IN
CENTRAL EXCISE APPEAL NO.15 OF 2014

M/s.Shree Gajanan Re-Rolling
Mills and others ...Applicants
vs.
Union of India and others ...Respondents

Mr.Ashok Singh with R.N.Gaonkar for the applicants
Mr.M.Dwivedi for the respondents

CORAM : A.S.OKA, &
RIYAZ I. CHAGLA,JJ.
DATE : SEPTEMBER 18, 2017

P.C.:

1 Heard the learned counsel for the applicants and the learned counsel for the respondents. By Judgment and order dated 5th January 2015, on the prayer made by the applicants, additional time of eight weeks from the date of the receipt of order dated 5th January 2015 was granted to the applicants to comply with the interim order passed by the Tribunal.

2 The prayer in this Notice of Motion is for extension of time. Our attention is invited to the averments made in the affidavit in support and in particular in paragraph 14 which record that a sum of Rs.7,50,000/- has been deposited by the applicants on 26th July 2016 and thus, there is a delay of 749 days in complying with the order dated 5th January 2015.

3 The appeal in which the present Notice of Motion is taken out was disposed of by the order dated 5th January 2015 takes an exception to the order dated 7th January 2013 passed by the Customs, Excise and Service Tax Appellate Tribunal (for short 'Appellate Tribunal') by which the application made by the applicants for modification of the order dated 2nd April 2012 was rejected. By the order dated 2nd April 2012, the Appellate Tribunal had directed the appellant to deposit a sum of Rs.7,50,000/-.

4 As a result of the failure of the applicants to deposit the amount of Rs.7,50,000/-, the appeal preferred by them stands dismissed.

5 Though belatedly, the applicants have complied with the requirement of deposit of Rs.7,50,000/-. Considering the fact that the delay is of more than 700 days, the applicants will have to be saddled with cost. The cost is quantified at Rs.15,000/-.

6 Accordingly, we dispose of the Notice of Motion by passing the following order:

(I) Time granted to the applicants under order dated 5th January 2015 in Central Excise Appeal No.15 of 2014 stands extended till 26th July 2016 subject to condition of the applicants paying costs quantified at Rs.15,000/- to the second respondent within a period of six weeks from today. Payment of

costs shall be a condition precedent;

(II) On making compliance as aforesaid within the stipulated period, the order of restoration of appeal shall stand restored;

(III) Notice of Motion is disposed of on above terms.

(RIYAZ I. CHAGLA,J.)

(A.S.OKA,J.)