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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.1443 OF 2017 IN
CENTRAL EXCISE APPEAL (L)NO.378 OF 2014

The Pr.Commissioner of
Central Excise, Mumbai-III ...Applicant
vs.
Voltas Limited ...Respondent

Mr.Swapnil Bangur for the applicant
Mr.Vipul Bilve i/b Mulla & Mulla for the respondent

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

P.C.:

1 Heard the learned counsel for the applicant and the learned counsel for the respondent. The learned Prothonotary and Senior Master passed a conditional order on 5th February 2015 directing that on the failure of the applicant to remove all office objections on or before 26th February 2015, the appeal shall stand rejected under Rule 986 of the Bombay High Court Original Side Rules.

2 This Notice of Motion is taken out for restoration of the Appeal. There is a prayer for condonation of delay of 853 days in taking out this Notice of Motion. This Notice of Motion is opposed by the learned counsel for the respondent by submitting that there is no explanation for delay of 853 days.

3 The Appeal preferred by the applicant has been dismissed not on merits but on the ground of failure to remove office objections. Reasons for condonation of delay in removing office objections have been set out in paragraphs 4 and 5 of the affidavit in support. In view of the averments made in paragraphs 6 and 7, sufficient cause is made out for condonation of delay.

4 Accordingly, a case is made out for restoration of delay. Hence, 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 appeal within a period of one month from today. If office objections are not removed within stipulated period, order of rejection of the appeal shall continue to operate.

(RIYAZ I. CHAGLA,J.)

(A.S.OKA,J.)