

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

NOTICE OF MOTION NO. 289 OF 2018
IN
CUSTOMS APPEAL (L) NO. 5 OF 2018

Nickunj Shah	.. Applicant
In the matter between	
Nickunj Shah	.. Appellant
v/s.	
Commissioner of Customs (Export)	..Respondent

Mr. Anil D'Souza for the applicant / orig. appellant
Mr. M. Dwivedi for the respondent

**CORAM : M.S. SANKLECHA &
RIYAZ I. CHAGLA, J.J.
DATED : 14th SEPTEMBER, 2018.**

P.C.

1. This motion has been taken out for condonation of 999 days delay in filing an appeal from the order dated 24th October, 2014 passed by the Customs, Excise and Service Tax Appellate Tribunal (Tribunal).

2. We have perused the affidavit dated 1st February, 2018 of the applicant in support of the motion. We find that the impugned order dated 24th October, 2014 passed by the Tribunal was a common order passed in respect of M/s. Nickunj Eximp Enterprises Pvt. Ltd. and the appellant-applicant herein. The applicant herein filed a joint appeal being Customs Appeal No.97 of 2015 along with M/s. Nickunj Eximp

Enterprises Pvt. Ltd., of which the applicant is the Managing Director.

3. On 20th December, 2017 when the Customs Appeal No.97 of 2015 came up for consideration, the appeal was restricted to only the appeal filed by the limited company and we were informed that the appellant no.2 therein i.e. applicant herein would file an independent appeal against the impugned order dated 24th October, 2014. This appeal has now been filed within a period of 40 days after the order dated 20th December, 2017 passed by this Court. We find that the reasons made out by the applicant in support of the motion sufficiently explains the delay in filing the appeal.

4. Mr. Dwivedi, learned Counsel appearing for the respondent – Revenue has no objection at the delay of 999 days delay in filing this appeal being condoned.

5. Accordingly, the motion is allowed in terms of prayer clause (a).

(RIYAZ I. CHAGLA, J.)

(M.S. SANKLECHA, J.)