

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

**NOTICE OF MOTION NO. 451 OF 2018
IN
CENTRAL EXCISE APPEAL (L) NO. 53 OF 2018**

Jai Bharat Steel Rolling Mills .. Applicant

In the matter between
Jai Bharat Steel Rolling Mills .. Appellant

v/s.
Union of India & Ors. ..Respondents

Mr. R.N. Gaonkar I/b Mr. Ashok Singh for the applicant / orig.
appellant
None for the respondents

**CORAM : M.S. SANKLECHA &
RIYAZ I. CHAGLA, J.J.**

DATED : 27th SEPTEMBER, 2018.

P.C.

1. None appears for the respondent despite the motion being served.
2. Mr. Gaonkar, learned Counsel appearing in support of the motion tenders an affidavit of service of Mr. Pravin Pendhari, dated 27th September, 2018.
3. This application has been taken out for condonation of delay of

1269 days delay in filing an appeal from the order dated 11th August, 2014 passed by the Customs, Excise and Service Tax Appellate Tribunal (Tribunal).

4. Mr. Gaonkar, invites our attention to the affidavit in support of the motion and points out that the order dated 11th August, 2014 passed by the Tribunal was received by the applicant on 26th September, 2014. The applicant instead of filing an appeal within stipulated period of 180 days from the receipt of the order dated 11th August, 2014, filed a writ petition in this Court on 15th March, 2015 being Writ Petition No.13853 of 2016. This filing of the writ petition was within 180 days period for filing an appeal from the order of the Tribunal as provided under Section 130 of the Customs Act, 1962. The writ petition challenging the order of the Tribunal dated 11th August, 2014 was dismissed on 5th February, 2018 on the ground that there is an efficacious alternate remedy of an appeal under the Act. In the above view, this accompanying appeal as well as this application for condonation of delay was filed on 14th March, 2018.

5. We are satisfied with the above reasons as the applicant was *bona fide* prosecuting its challenge to the order dated 11th August, 2014

of the Tribunal before this Court in its writ jurisdiction and the same was disposed of on 5th February, 2018.

6. Accordingly, the Notice of Motion is allowed in terms of prayer clause (a).

(RIYAZ I. CHAGLA, J.)

(M.S. SANKLECHA, J.)