

Sharayu Khot.

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

NOTICE OF MOTION NO. 520 OF 2018

IN

CUSTOM APPEAL (L) NO. 29 OF 2018

WITH

CUSTOM APPEAL (L) NO. 29 OF 2018

**The Commissioner of CGST and Central
Excise Belapur Commissionerate**

**...Applicant/
Appellant**

Versus

Bhaskar B. Shah

...Respondent

ALONGWITH

NOTICE OF MOTION NO. 522 OF 2018

IN

CUSTOM APPEAL (L) NO. 30 OF 2018

WITH

CUSTOM APPEAL (L) NO. 30 OF 2018

**The Commissioner of CGST and Central
Excise Belapur Commissionerate**

**...Applicant/
Appellant**

Versus

Gandhi Associates

...Respondent

ALONG WITH

NOTICE OF MOTION NO. 524 OF 2018
IN
CUSTOM APPEAL (L) NO. 28 OF 2018
WITH
CUSTOM APPEAL (L) NO. 28 OF 2018

The Commissioner of CGST and Central Excise Belapur Commissionerate **...Applicant/
Appellant**

Versus

Jabs International Pvt. Ltd. **...Respondent**

Mr. Swapnil Bangur, for the Applicant/Appellant (in all NMAs).
Mr. Anil Balani a/w Mr. Stebin Mathew, for the Respondents (in all NMAs).

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

DATE : 12 October 2018

ORDER :

1. On 28th September 2018, we had passed the following common order:-

“1. These three Notices of Motion have been taken out for condonation of delay in filing the three

Appeals from the Order dated 20th February, 2017 passed by the Customs, Excise & Service Tax Appellate Tribunal Tribunal). The Applicant / Appellant before us is the Commissioner, CGST and Central Excise.

2. *Mr. Balani, the learned counsel appearing for the Respondents invites out attention to the fact that impugned order of the Tribunal dated 20th February, 2017 which is sought to be appealed against is from an order passed in an appeal by the Tribunal under Customs Act, 1962 with regard to the payment of customs duty on import of goods. In the above view, it is submitted that the Appeal is filed by an Authority who does not exercise jurisdiction under the Customs Act, 1962.*
3. *Prima facie this seems to be so. No mention is made in Affidavit in Support of the Notices of Motion or even in the Appeal memo, the basis of the Applicant being aggrieved with an order under the Customs Act, 1962.*
4. *In that view of the matter, Mr. Joshi seeks time to take instructions and file an Affidavit explaining basis of the Commissioner exercising jurisdiction in the present case.*

5. *At the request of Mr. Joshi, above Notices of Motion are adjourned to 12th October, 2018.”*

2. Shri. Bangur, the learned Counsel appearing in support of these Appeals, tenders an Additional Affidavits of Ms. Arpitha S., Assistant Commissioner of Division -IV, CGST & Central Excise, Belapur Commissionerate dated 10th October 2018.

3. Today, Shri. Bangur, the learned Counsel appearing in support of these Appeals seeks to withdraw these Motions as well as these Appeals filed from the order of the Tribunal dated 20th February 2017, as the Appellant does not exercise jurisdiction under the Customs Act, 1962.

4. Accordingly, these Notices of Motion as well as these Appeals are dismissed as withdrawn.

[RIYAZ I. CHAGLA J.]

[M.S. SANKLECHA, J.]