

Sharayu Khot.

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

**NOTICE OF MOTION NO. 742 OF 2018
IN
CENTRAL EXCISE APPEAL (L) NO. 372 OF 2014**

**Deputy Chief Manager
(Printing & Stationery)
Central Railway**

**...Applicant/
Appellant**

Versus

**Commissioner of Central Excise &
Customs**

...Respondent

Mr. R.V. Desai, Senior Counsel, a/w Ms. Sangeeta Yadav, for the
Applicant/Appellant.

Mr. Sham Walve, for the Respondent.

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

DATE : 25 October 2018

ORDER :

1. This Motion seeks condonation of 1190 days delay in

making this Application to set aside the order dated 5th February 2015 passed by the Prothonotary & Senior Master. The above order dated 5th February 2015 passed under Rule 986 of the Bombay High Court (Original Side) Rules reject the appeal for non removal of office objections.

2. The Revenue opposes the Application.

3. Shri. Desai, the learned Senior Counsel in support of this Motion, invites our attention to the Affidavit in Support of the Motion filed by Ms. P. Sudha, Sr. MPS dated 30th June 2018. The Affidavit records the fact that at the time when the order dated 5th February 2015 was passed, one Shri. B.P. Verma was looking after the Appeal on behalf of the Applicant. However, he retired on 30th September 2015 and present deponent of the Affidavit took charge, but it was only in May 2018 while perusing the papers that she learnt about this Appeal and on enquiry, she learnt that the Appeal has been rejected on 15th February 2015. The Affidavit further states that

immediately thereafter, the Applicant took out this Motion in June 2018. Thus, it is prayed that this Motion be allowed.

4. We find that there is no explanation offered by the Applicant for the steps taken after receipt of the order was passed by the Prothonotary & Senior Master on 5th February 2015 till 30th September 2015. It is not the case in the Affidavit that the Applicant is not informed or that it was not aware of the order passed on 5th February 2015. The Officer concerned with the Appeal retired in September 2015. Thereafter, for a period of three years no action was taken on the ground that the officer who took charge from the earlier officer was not aware. No circumstances have been set out as to how she then became aware. Merely stating that she came across the papers is not sufficient explanation for the delay. Accrued rights of the other side are at stake and giving a repose/an end to old litigation is the object of providing for period of limitation. The object of the law of limitation is to bring certainty and finality to litigation. It is based on the maxim “*interest reipublicae sit finis litium*” i.e. for

the general benefit of the community at large, because the object is that every legal remedy must be alive for a legislatively fixed period of the time. This can of course be disturbed, if there is an acceptable explanation for the delay which we are of the view is not offered in the present facts.

5. In the above view, the explanation offered for the delay in taking out an Application is not acceptable. It indicates that the Applicant was negligent about prosecuting this Appeal. Therefore, we are not satisfied with the reasons indicated in the Affidavit.

6. Accordingly, the Motion is dismissed.

[RIYAZ I. CHAGLA J.]

[M.S. SANKLECHA, J.]