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

NOTICE OF MOTION NO. 569 OF 2018
IN
CENTRAL EXCISE APPEAL NO. 110 OF 2016

Souvenir Developers India Pvt. Ltd. .. Applicant

In the matter between
Souvenir Developers India Pvt. Ltd. .. Appellant

v/s.
Commissioner of Central Excise-II ..Respondent

Ms. Anikita Vashistha I/b UBR Legal for the applicant / orig. appellant
Ms. P.S. Cardozo for the respondent

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

DATED : 4th OCTOBER, 2018.

P.C.

1. This motion has been taken out for extension of time granted by this Court on 14th December, 2017 while disposing of the appeal.

2. This Court by order dated 14th December, 2017 dismissed the appeal of the applicant from the order dated 17th August, 2015 passed by the Customs, Excise and Service Tax Appellate Tribunal (Tribunal). This for failure to comply with the mandate of Section 35F of the Central Excise Act, 1944 (the Act) requiring deposit of amounts

equivalent to 7.5% of the service tax liability confirmed by the adjudicating authority. This Court while disposing of the appeal from order dated 4th October, 2017 had at the request of the applicant granted 4 weeks time from 14th December, 2017 to make the necessary deposit and on compliance of the same to the satisfaction of the Tribunal, the appeal of the applicant was to be considered on merits. The affidavit in support states that the deposit as required in terms of Section 35F of the Act have been made by the respondent and the delay in not being able to deposit within time undertaken before this Court was only in view of the financial difficulties.

3. The affidavit further states that the amount equivalent to 7.5% of the service tax liability has been deposited as required under Section 35F of the Act on or before 1st June, 2018. In view of the above, time to deposit is extended till 2nd June, 2018.

4. Therefore, the motion is allowed in terms of prayer clause (a) and the time to make the pre-deposit is extended till 2nd June, 2018. However, it is made clear that it will be for the Tribunal to satisfy itself that the applicant herein has complied with the provisions of Section 35F of the Act. On the Tribunal finding that the same has been

complied with, the appeal would be restored by the Tribunal for its consideration on merits.

5. The motion is disposed of in the above terms.

(RIYAZ I. CHAGLA, J.) **(M.S. SANKLECHA, J.)**