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

NOTICE OF MOTION (L) NO. 2114 OF 2018
IN
NOTICE OF MOTION NO. 141 OF 2016
IN
ARBITRATION PETITION (L) NO. 1567 OF 2015

M/s.Patil Alco and Allied Industries Ltd. …Petitioner
vs
Hindustan Petroleum Corporation Ltd. ...Respondent

Mr.Anand Patil I/b. Anand Patil & Associates for Applicant.
Mr.Minoo Diodia with Ashiya Shaikh I/b. Rustomji & Ginwala for Respondent.

CORAM : S.C.GUPTE, J.

DATE : 19 DECEMBER 2018

P.C. :

Heard learned Counsel for the parties.

2 This notice of motion is taken out for recall of an order passed by this court on 28 April 2016 in Notice of Motion No.151 of 2016. That notice of motion was for recall of an earlier order passed in the petition. Even that notice of motion was taken out after a delay of about 30 days. The delay was condoned and the motion was allowed by the court directing the Applicant to remove all office objections within four weeks, failing which the petition would stand dismissed without any reference to the court. The Applicant/Petitioner not only failed to comply with the order but has taken out the present notice of motion after delay of about 837 days. The explanation given by the Applicant/Petitioner is somewhat far-fetched. Considering, however, the interest of justice and also taking a

liberal view of the default on the part of the Petitioner, who has claimed the delay to be on account of his Advocate's ill-health and also resignation of his employee looking after the matter, this court is of the view that the dismissal may be recalled and Notice of Motion No.151 of 2016 may be restored to file and heard subject to payment of compensatory costs.

3 Accordingly, the notice of motion is made absolute in terms of prayer clauses (a) and (b). The Applicant shall pay costs of this notice of motion quantified at Rupees One Lakh to the Respondent corporation. The Petitioner to serve Notice of Motion No.151 of 2016 as also Arbitration Petition (Lodging) No.1567 of 2015 on the Respondent within two weeks.

(S.C. GUPTE, J.)