Sharayu Khot.

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

NOTICE OF MOTION NO. 2010 OF 2017

IN

CUSTOM APPEAL NO. 36 OF 2017

The Principal Commissioner of Customs (Preventive)	**...Applicant/ Appellant**
Versus	
Navneet Didwania	**...Respondent**

Mr. Pradeep S. Jetly, for the Applicant/Appellant.

Mr. Vivek Kantawala, a/w Mr. Amey Patil, Mr. Jash Vyas, i/by M/s. Vivek Kantawala & Co., for the Respondent.

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

DATE : 19 October 2018

ORDER :

1. This Motion has been taken out in a pending Appeal

under Section 130 of the Customs Act, 1966 ("***the Act***") filed against the Order dated 24th April 2017 passed by the Customs, Excise and Service Tax Appellate Tribunal (for short "***the Tribunal***").

2. The Appeal was admitted on 24th September 2018. This Application seeks stay of the impugned order dated 24th April 2017 to the extent the amount of Rs. 10,00,000/- which has been deposited by the Respondent herein should continue to remain with the Revenue till final disposal of the Appeal.

3. In support of the Application, Shri. Jetly, the learned Counsel states that the Appeal against the impugned order dated 24th April 2017 has been admitted for consideration. This, according to the Revenue, would itself warrant a stay of the impugned order dated 24th April 2017 and therefore, there is no requirement of return of the amount of Rs. 10,00,000/-, which was deposited by the Respondent during the proceedings before the Authorities under the Act. It is secondly submitted

that there was an *ad-interim* stay of the impugned order dated 24th April 2017 granted on 8th November 2017. Thus, an *ad-interim* stay which was granted, should continue till disposal of the Appeal.

4. Admission of an Appeal merely indicates that the question as urged gives rise to debatable issues. This by itself would not warrant a stay of the order dated 24th April 2017 passed by the Tribunal. So far as the grant of *ad-interim* stay dated 8th November 2017 is concerned, we note that the aforesaid order was passed when the Applicant sought time to remove office objections. At that time, an *ad-interim* stay was granted restraining the Respondent from recovering any amount from Revenue. This *ad-interim* order dated 8th November 2017 came to an end on 14th December 2018.

5. No extra ordinary circumstances are pointed out which would justify depriving the Respondents, the fruit of its success before the Tribunal founded in the impugned order

dated 24th April 2017.

6. Accordingly, the Notice of Motion is dismissed.

[RIYAZ I. CHAGLA J.] **[M.S. SANKLECHA, J.]**