

Sharayu Khot.

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

NOTICE OF MOTION NO. 1936 OF 2017

IN

CUSTOM APPEAL NO. 24 OF 2016

The Commissioner of Customs NS-I

**...Applicant/
Appellant**

Versus

Can-Pack India Pvt.Ltd.

...Respondent

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

Mr. Sanjay Singhal, for the Respondent.

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

DATE : 30 August 2018

ORDER :

1. This Motion has been taken out by the Revenue in

an Appeal filed under Section 130 of the Customs Act, 1962 challenging the order dated 17th September 2014 passed by Customs, Excise and Service Tax Appellate Tribunal (for short “*the Tribunal*”).

2. The Appeal was admitted on 2nd August 2017 questioning the grant of refund by the impugned order dated 17th September 2014.

3. Shri. Singhal, the learned Counsel appearing in support of the Respondent opposed the Motion and invites our attention to the Affidavit dated 29th August 2018 filed by Shri. Harsh Vardhan Jajoo, the Managing Director and CEO of the Respondent to point out that the impugned order of the Tribunal dated 17th September 2014 already been given effect and the Respondent has received the refund of Rs. 7,40,070/- along with interest thereon. Consequent to the grant of refund, the Respondent has also issued a demand show cause notice dated 15th December 2017 on the ground that the refund given

was erroneous.

4. In the above circumstances, the Motion seeking a stay of the impugned order becomes infructuous. Accordingly, the Motion is disposed of as infructuous.

[RIYAZ I. CHAGLA J.]

[M.S. SANKLECHA, J.]