

Sharayu Khot.

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

NOTICE OF MOTION NO. 338 OF 2016

IN

CUSTOM APPEAL NO. 20 OF 2016

**The Principal Commissioner of Customs (General) ...Applicant/
Appellant**

Versus

Shiraz Clearing Agencies Pvt.Ltd. ...Respondent

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

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

DATE : 30 August 2018

ORDER :

1. None appears for the Respondent, despite service.

2. This Motion has been taken out in the Appeal filed under Section 130 of the Customs Act, 1962 from the order dated 24th April 2015 passed by the Customs, Excise and Service Tax Appellate Tribunal (for short “*the Tribunal*”).

3. Appeal was admitted on 14th August 2017 on the following substantial questions of law:-

“(I) Whether the Appellate Tribunal was right in restricting the revocation only till 31st December 2015 after confirming the finding that the respondent has violated clauses (b) and (o) of the Regulation 13?

(II) Whether the direction given in paragraph 17 by the Appellate Tribunal is perverse in as much as there is a finding recorded of violation of clauses (b) and (o) of Regulation 13 by the respondent?”

4. This Motion seeks a stay of the impugned order dated 24th April 2015 of the Tribunal till the final disposal of

the accompanying Appeal. The issues which arise for consideration in this Appeal are with regard to breaches committed under the Customs House Agents Licensing Regulations, 2004 (for short “**CHALR 2004**”). The impugned order had restricted the revocation of the licence till 31st December 2015. It is the Revenue's case that the impugned order of the Tribunal is perverse and the revocation of licence restricted only till 31st December 2015 was not justified in the facts of this case.

5. The impugned order dated 24th April 2015 of the Tribunal vacated the cancellation of the licence with effect from 31st December 2015. This would entitle the Respondent-Assessee to carry out its business, as the Customs House Agents. The Appellant is not able to categorically state whether the Respondent-Assessee is continuing operation as a CHA or not. Therefore, no further breaches from 1st July 2016 till date is even alleged. We are of the view that staying the impugned order dated 24th August 2015 would in effect be allowing the

Appeal itself at an interim stage. However, as perversity is alleged it would be appropriate that the Appeal itself be expedited and fixed for final disposal on 19th November 2018 at 3.00 p.m.

6. In the above view, the Notice of Motion is dismissed with the above directions.

[RIYAZ I. CHAGLA J.]

[M.S. SANKLECHA, J.]