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

**NOTICE OF MOTION NO. 138 OF 2018
IN
CENTRAL EXCISE APPEAL (L) NO. 125 OF 2017**

The Commissioner of CGST, Mumbai West ... Applicant / Ori.
Appellant
V/s.
Addis Marketing ... Respondent

Ms. P.S. Cardozo, for the Applicant / Ori. Appellant.
Ms. Pinky D. Chainani i/b R.G. Sheth for the Respondent.

**CORAM: M.S.SANKLECHA &
RIYAZ I. CHAGLA, JJ.**
DATE: 5TH OCTOBER, 2018.

PC:-

1. This application has been taken up for condonation of 211 days delay in preferring an appeal from the order 2nd September, 2016 passed by the Customs, Excise and Service Tax Appellate Tribunal (Tribunal). The Respondent opposes the application.

2. The Affidavit in Support of the Notice of Motion indicates that applicant had handed over the vakalatnama to the department counsel on 29th March, 2017 and the draft was ready and approved by the Commissioner on 29th March, 2017. We are unable to understand how could a draft be ready and approved by the Commissioner even before the Revenue had engaged an

advocate to prepare its case for filing of appeal to this Court. The Affidavit as filed is very casual.

3. We have been noticing in numerous matters that the Affidavits filed in support of the applications of condonation of delay are very casual in nature and we have been allowing the applicants to file further Affidavits so as to bring correct facts on record. However, this granting of time and permitting filing of additional affidavits has only led to the casualness in filing Affidavits in Support of the Motion being continued.

4. In the above view, in this case we do not grant time to file additional affidavit as requested by the learned counsel for the Revenue. Moreover, this request was made only when we pointed out the above casualness in filing Affidavit in Support of the Notice of Motion.

5. Notice of Motion is dismissed.

6. In view of the above, the Appeal is also dismissed as infructuous.

(RIYAZ I. CHAGLA J.)

(M.S.SANKLECHA, J.)