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

NOTICE OF MOTION NO. 260 OF 2019
IN
CUSTOMS APPEAL NO. 4 OF 2019

The Commissioner of Customs .. Applicant

In the matter between
The Commissioner of Customs .. Appellant

v/s.
Razvi Shipping Agency .. Respondent

Mr. Pradeep S. Jetly for the applicant
Dr. Sujay Kantawala a/w Brijesh Pathak, Poorva Patil, Sujit Sahoo for the respondent

CORAM : M.S. SANKLECHA &
M.S. SONAK, J.J.

DATED : 6th JUNE, 2019

P.C.

1. This application has been filed seeking condonation of 485 days delay in filing the accompanying appeal from the order dated 18th April, 2017 of the Customs, Excise and Service Tax Appellate Tribunal.

2. On 11th April, 2019, this Court has passed the following order.

> *"When we found that there is hardly any explanation for delay of 485 days in preferring appeal, the learned Counsel for the applicant seeks time to file additional affidavit. We grant time of two weeks from today to file additional affidavit. Place the Notice of Motion on 25th April, 2019."*

3. Consequent to the above, the applicant has filed an additional affidavit dated 24th April, 2019. In the additional affidavit, it is stated that the impugned order dated 18th April, 2017 was received on 24th April, 2017 / 11th May, 2017. By the above order, the respondent's Custom Brokers License which had been revoked has been restored. On 9th October, 2017 the Deputy Commissioner proposed filing an appeal before this Court. On further reference to the Principal Commissioner of Customs for his approval, the same was returned with a note seeking a compliance with the CESTAT order and, thereafter to file an appeal on merits. Thereafter, the Customs Broker License was restored to the respondent and the papers were put up before the Principal Commissioner of Customs (General) for approval to file an appeal. However, on 22nd June, 2018, the Principal Commissioner of Customs (General) was thereafter transferred and the new Commissioner of Customs (General) on 22nd October, 2018 directed self contained note be put up for the approval of the Chief Commissioner. The note as directed was put up on 31st December, 2018 and the Chief Commissioner of Customs directed on 1st January, 2019 that the appeal be filed. On 4th January, 2019 a panel Counsel was appointed and after preparation of the appeal, the same was lodged on 18th February,

2019.

4. Mr. Kantawala, learned Counsel appearing for the respondent strongly opposed the condonation of delay application and submits that the respondents have not explained the delay to the satisfaction of the Court and, therefore, the application to be dismissed.

5. From the above facts, we note that the delay in filing the appeal has been sufficiently explained. It is not a case of negligence on the part of the Revenue in taking steps to file an appeal from the impugned order of the Tribunal dated 18th April, 2017.

6. Therefore, we allow the notice of motion in terms of prayer clauses (a) and (b).

(M.S. SONAK, J.) **(M.S. SANKLECHA, J.)**