

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 362 OF 2019
IN
CENTRAL EXCISE APPEAL (L) NO. 114 OF 2014**

Umasha Textile Private
Limited .. Applicant/Org. Appellant

IN THE MATTER BETWEEN

Umasha Textile Private
Limited .. Appellant

VS.

Commissioner of Central Excise .. Respondent

Mr. Bharat Raichandani I/b UBR Legal for the
Applicant/Appellant.

Mr. Ram Ochani for the Respondent.

**CORAM: M.S. SANKLECHA, J.
AND M.S.SONAK, J.**

DATE : 07 JUNE 2019.

P.C.:

1] Heard learned counsel for the parties.

2] This Notice of Motion seeks condonation of delay of 1584 days in filing a motion to restore Central Excise Appeal (L) No. 114 of 2014 which came to be dismissed under Rule 986 of the Bombay High Court Original Side Rules.

3] The affidavit filed in support of Notice of Motion is quite sketchy and discloses no sufficient cause in order to explain the inordinate delay of 1584 days. All that, the affidavit states is that the Court Clerk of the erstwhile Advocate left the said Advocate's

office some time in the year 2014 and further, the erstwhile Advocate shifted his office and was therefore, unable to locate the appeal papers. The affidavit does not reveal or refer to the name or details of the erstwhile Advocate. The affidavit also does not refer to the steps, if any, taken by the appellant to pursue the matter, either with the erstwhile Advocate or with the present Advocates. The averments in the affidavit are unverifiable and on the basis of such self-serving averments, delay of 1584 days cannot be condoned. In such matters, it is not sufficient that the appellant places blame upon some erstwhile Advocate or erstwhile Clerk of the erstwhile Advocate and on such basis seek condonation of delay of 1584 days. The appellant has to also place on record the steps, if any, undertaken by the appellant to pursue the matter with its Advocates. The averments in the affidavit in support of the motion are quite vague and bereft of any material particulars. In such circumstances, it cannot be said that any sufficient cause has been made out to condone the inordinate delay of 1584 days.

4] For the aforesaid reasons, Notice of Motion No. 362 of 2019 is liable to be dismissed and is hereby dismissed. As a consequence, Notice of Motion seeking recall of the order dated 18th September 2014, dismissing the appeal under Rule 986 of Bombay High Court Original Side Rules does not survive and is also consequently disposed of.

(M.S.SONAK, J.)

(M.S.SANKLECHA, J.)