

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

**NOTICE OF MOTION NO. 461 OF 2019
IN
CENTRAL EXCISE APPEAL (L) NO. 37 OF 2019**

The Commissioner of CGST & CE, Daman .. Applicant

In the matter between
The Commissioner of CGST & CE, Daman .. Appellant

v/s.
M/s. Apar Industries Ltd. .. Respondent

Ms. P.S. Cardozo I/b Ram Ochani for the applicant
Mr. Jas Sanghvi I/b PDS Legal for the respondent

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

DATED : 9th JULY, 2019

P.C.

1. This application has been taken out for condonation of 2462 days delay in filing an appeal from the order dated 27th December, 2011 passed by the Customs, Excise and Service Tax Appellate Tribunal.

2. The affidavit-in-support of the motion points out that the delay in filing the appeal to this Court was on account of the fact that the applicant had filed an appeal within time before the Hon'ble Gujarat High Court from the order dated 3rd September, 2012, being Appeal

No.445 of 2012 and the appeal was admitted on 3rd September, 2012. It was only when it was came up for final hearing on 21st December, 2018, the applicant realized that the appeal from the impugned order of the Tribunal would lie before this Court and not before the Hon'ble Gujarat High Court and, therefore, withdrew the appeal before the Gujarat High Court with liberty to file an appeal before this Court. Immediately thereafter, the applicant has filed this appeal.

3. In view of the above, we find that there is sufficient explanation for the delay in filing the appeal before this Court.

4. Accordingly, the Notice of Motion is allowed in terms of prayer clause (a).

(M.S. SONAK, J.)

(M.S. SANKLECHA, J.)