

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

**CUSTOMS APPEAL NO. 3 OF 2021
WITH
INTERIM APPLICATION NO. 2250 OF 2020**

Graphite India Ltd.

...Appellant/
Applicant

Versus

Commissioner of Customs (Adjudication),
New Customs House, Mumbai

...Respondent

SANTOSH
SUBHASH
KULKARNI

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Mr. Mayank Jain, i/b Khaitan & Co., for the Appellant/
Applicant.

Mr. Pradeep Jetly, Senior Advocate, a/w Mr. Jitendra Mishra
and Ms. Sangeeta Yadav, for the Respondent.

**CORAM: K. R. SHRIRAM &
N. J. JAMADAR, JJ
DATED: 26th FEBRUARY, 2022**

Order:

1. We considered the impugned order in this appeal, which is yet to be admitted. While considering the interim application for stay filed by the applicant, at paragraph 6 of the impugned order the Tribunal acknowledges that the appellant herein had relied upon certain orders/judgments. Those authorities have not been discussed or dealt with or distinguished in the impugned order.

2. When this was brought to the notice of Mr. Jetly and a suggestion was made by the Court, Mr. Jetly was agreeable to

this impugned order being quashed and the matter being remitted to the Tribunal for *de novo* consideration.

3. Accordingly impugned order dated 17th September 2019 is hereby quashed and set aside. The matter is remitted for *de novo* consideration to the Tribunal, which shall endeavour to dispose of the remitted appeal as early as possible and, in any event, by 30th June 2022.

4. We clarify that, we have not made any observations on the merits of the matter.

5. Interim application as well as the appeal accordingly stand disposed.

[N. J. JAMADAR, J.]

[K. R. SHRIRAM, J.]