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

**INTERIM APPLICATION NO.3778 OF 2024
IN
CENTRAL EXCISE APPEAL NO.83 OF 2018**

Jayesh Sanghrajka

.. Applicant

Versus

The Commissioner of Custom and Excise,
Mumbai III

.. Respondent

**Mr.Shyam Kapadia a/w Mr.Gaurav Suryavanshi i/b M/s.ANM Global,
Advocate for the Applicant.**

**Mr.Ram Ochani a/w Mr.Suman Kumar Das, Advocate for
Respondents.**

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE: MAY 02, 2025

P. C.

1. The above Interim Application is filed seeking to restore the above Appeal which was dismissed for want of prosecution by order dated 8th June 2023. A prayer is also made to condone the delay in filing this Application as the same is filed on 11th October 2024.

2. The explanation given for the delay is basically that the erstwhile Advocates of the Applicant were unable to appear before this Court on 8th June 2023, due to an inadvertent oversight in tracking the case listing. According to the Applicant, it was not expecting the captioned Appeal to be listed since a moratorium under section 14 of the Insolvency and Bankruptcy Code, 2016 was still in effect, and the Applicant was handling an overwhelming number of claims and managing a substantial volume of litigation matters of the Company, for which, the Applicant was appointed as the Resolution Professional. This led to an unintentional oversight and the matter was dismissed when called out on 8th June 2023. It is in these circumstances that the Applicant requests that the above Appeal be restored and be heard on merits especially since notwithstanding a successful resolution, the Excise Authorities are seeking to act contrary to the Resolution Plan approved on 9th August 2024.

3. When we asked Mr.Kapadia, as to how the Resolution Professional would have locus to prosecute this Appeal since he would have become functus officio after the approval of the Resolution Plan, he submitted that the new management of the Company has authorised the Resolution Professional not only to make the present Application but also to

prosecute the above Appeal, since he is the Chairman of the Monitoring Committee.

4. Having heard Mr.Kapadia, as well as the learned A.G.P., though we are not fully satisfied with the explanation given for the delay in order to ensure that the Applicant is not denied an opportunity to agitate his grievances on merits, we hereby condone the delay and set aside the order dated 8th June 2023. Consequently, we hereby restore the above Appeal to the file of this Court. All this is of course subject to cost of Rs.25,000/- being paid within a period of two weeks from today by RTGS to The High Court Employees Medical Welfare Fund at Mumbai.

Bank Account Details :

Account Name	:	The High Court Employees Medical Welfare Fund at Mumbai.
Bank Name	:	Bank of India
Branch	:	Mumbai Main
A/c. No.	:	000120110001337
IFSC Code	:	BKID00000001

5. It is needless to clarify that if the costs are not paid within the stipulated period, the above Interim Application shall stand dismissed without further reference to the Court.

6. Interim Application is disposed of in the aforesaid terms.

7. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]