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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8296 OF 2014

Lucian Louis Fonseca & Anr.

..Petitioners

-Versus-

Union of India and Ors.

..Respondents

.....

Mr. Jacob Kadantot a/w Manmohan A. Amunkar for the Petitioners.

Mr. R. V. Desai, Senior Advocate, a/w M. S. Bhardwaj & Rohit Pardeshi
for the Respondent Nos.1 to 3.

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CORAM: A. S. OKA AND

A. P. BHANGALE, JJ.

DATE :- 19th MARCH, 2015.

PC.:

Heard learned counsel for the Petitioners and learned Senior Counsel for third Respondent. The substantive challenge in this Petition is to the order dated 16th September, 2013 passed by the third Respondent under the provisions of the Prevention of Money Laundering Act, 2002 (for short "the said Act of 2002"). The learned Senior Counsel appearing for the third Respondent submits that any person aggrieved by the order made by the third Respondent has a remedy of preferring an Appeal to the Appellate Tribunal in accordance with sub-section(1) of section 26 of the said Act of 2002. He submits that the Petitioners can prefer an Appeal along with an application for condonation of delay.

2] The learned counsel appearing for the Petitioners accepts that a

remedy of Appeal is available which can be availed of by the Petitioners. He expressed an apprehension that if the Petitioners prefer an Appeal along with an application for condonation of delay, the delay may not be condoned and the Appeal may not be entertained on merits in the light of the order dated 27th August, 2014 passed by the Appellate Tribunal on the application for intervention made by the Petitioner.

3] The learned counsel appearing for the Petitioners submits that the Appellate Tribunal be directed to entertain the Appeal on merits.

4] We have considered submissions. The orders dated 28th March, 2013 and 16th September, 2013 have been passed by the third Respondent which is the Adjudicating Authority under the provisions of the said Act of 2002. Under sub-section(1) of section 26 of the said Act 2002, a remedy of Appeal is available to any person aggrieved by an order made by the Adjudicating Authority under the said Act of 2002 subject to limitation provided under sub-section (3) of section 26 of the said Act of 2002. Thus, sub-section(1) of section 26 provides a remedy of an Appeal to any aggrieved person even if the person is not a party to the proceedings before the Adjudicating Authority.

5] Therefore, an Appeal at the instance of the Petitioners will be

maintainable under sub-section(1) of section 26. Sub-section(3) of section 26 provides for a period of limitation of 45 days. The proviso to sub-section(3) confers power on the Appellate Tribunal to condone the delay if a sufficient cause is made out.

6] Therefore, we pass the following order:-

(a) The Petition is disposed of by keeping the remedy of the Petitioners of preferring an Appeal under sub-section(1) of section 26 of the said Act of 2002, expressly open;

(b) If the Petitioners prefer an Appeal along with an application for condonation of delay, the Appellate Authority is bound to consider the fact that initially in the Appeal preferred by one Ajit Bapu Satam, the Petitioners made an application for intervention on 27th July, 2014 and the said application remained pending till 27th August, 2014. The Appellate Authority is also bound to note that the present Petition was filed by the Petitioners on 22nd August, 2014 and the same remained pending in this Court till today. The Appellate Tribunal is bound to consider the aforesaid aspects while considering the prayer for condonation of delay. It is obvious that even the Respondents will not entitled to raise a technical objection of bar of limitation in the light of the peculiar facts set out above;

(c) If the delay is condoned, the Appeal shall be entertained and heard on its own merits;

(d) All contentions raised by the Petitioner on merits are kept open.

(e) All concerned to act upon an authenticated copy of this order.

(A. P. BHANGALE,J.)

(A. S. OKA, J.)