

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No.26809 of 2014 (A)

PETITIONER :

**ABDUL LATHEEF @ C.B.LATHIF,
GARDEN VILLA, MELPARAMBU P.O., KASARAGOD
KASARAGOD.**

**BY ADVS.SRI.JOSHI N.THOMAS
SRI.K.CHITHAMBARAN**

RESPONDENTS :

- 1. UNION OF INDIA
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE
MINISTRY OF FINANCE, NORTH BLOCK, NEW DELHI - 110 001.**
- 2. DIRECTOR OF ENFORCEMENT,
DIRECTORATE OF ENFORCEMENT (FEMA)
GOVERNMENT OF INDIA, LOK NAYAK BHAVAN,
KHAN MARKET, NEW DELHI - 110 003.**
- 3. THE JOINT DIRECTOR,
DIRECTORATE OF ENFORCEMENT, 3RD FLOOR, B BLOCK
B.M.T.C, TTMC BUILDING, SHANTI NAGAR
K.H.ROAD, BANGALORE - 560 027.**
- 4. THE ASSISTANT DIRECTOR,
DIRECTORATE OF ENFORCEMENT, GOVERNMENT OF INDIA
3RD FLOOR, B BLOCK, BMTC - TTMC BUILDING
SHANTI NAGAR, K.H.ROAD, BANGALORE - 560 027.**
- 5. SPECIAL DIRECTOR (APPEALS),
SOUTH ZONE FEMA
(COMMISSIONER OF INCOME TAX (APPEALS), 121
MAHATMA GANDHI ROAD, CHENNAI - 600 034.**

R1-R5 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

WP(C).No. 26809 of 2014 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 :** PHOTO COPY OF ORDER (ORIGINAL) AD/BZO/09/2013-14
DATED 03.07.2013.
- EXHIBIT P2 :** PHOTO COPY OF THE PETITION SUBMITTED BY PETITIONER
DATED 23.10.2013 TO THE 3RD RESPONDENT.
- EXHIBIT P3 :** PHOTO COPY OF THE JUDGMENT DATED 10.01.2014 IN W.P.(C)
NO.1009/2014 OF THIS HON'BLE COURT.
- EXHIBIT P4 :** PHOTO COPY OF PROCEEDING ISSUED BY THE 4TH
RESPONDENT ON 14.02.2014.
- EXHIBIT P5 :** PHOTO COPY OF LETTER NOF.NO. T-8/302-BGZO/2013 DATED
19.02.2014 BY THE 4TH RESPONDENT ENCLOSING COPY OF
APPEAL MEMORANDUM TOGETHER WITH COPY OF STAY
APPLICATION.

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

K.HARILAL, J

W.P.C.No.26809 of 2014

Dated this the 12th day of February, 2015

JUDGMENT

The petitioner is a person confronting with a proceedings initiated against him, by the third respondent under Section 3(c) of Foreign Exchange Management Act, 1999 (hereinafter called 'the Act'). After hearing the petitioner, the fourth respondent had passed Ext.P1 order imposing a penalty under Section 13(1) of the Act, and further directed to release the balance amount, after appropriating the penalty from the seized amount. Against this order, the fourth respondent filed an appeal under Section 17 of the Act before the fifth respondent. This writ petition is filed seeking a direction to the fourth respondent to release the balance amount directed to be released to the petitioner under Ext.P1 order. The revenue has already filed a counter affidavit on behalf of all the respondents raising objection against release of the balance amount after appropriating penalty.

2. The learned Standing Counsel for the

Revenue submits that a statutory appeal under Section 17 of the Act is pending before the fifth respondent and the said amount cannot be released during the pendency of the said appeal. I find some force in the objection raised by the revenue.

3. In the above circumstance, I am of the view that the grievances of the petitioner can be redressed by directing the fifth respondent to dispose the statutory appeal at the earliest. The fifth respondent is directed to dispose Ext.P5 appeal at the earliest, at any rate, within a period of two months from today.

This writ petition is disposed of accordingly.

Sd/-
K.HARILAL
JUDGE

/TRUE COPY/

PA TO JUDGE

VS