

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NOS. 561 & 562 OF 2013

WRIT PETITION NO. 561 OF 2013

Pokle & Co. (Through Proprietor)

Opp. Azad Maidan,

Panaji 403 001

represented through its

proprietor

Maya S. Pokle

... Petitioner

V e r s u s

1. Union of India,
(Through the Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi – 110001.

2. The Assistant Commissioner
of Customs (Appraising),
Custom House,
Mormugao Harbour,
Goa 403 803

... Respondents

AND

WRIT PETITION NO. 562 OF 2013

Fomento Resources Pvt. Ltd.,

Casa De : Sol. 2nd Floor,

Near Hotel Marriots,

Miramar,

Panaji 403 001,

represented through

its authorised signatory and

Director Apporva Misha.

... Petitioner

V e r s u s

1. Union of India,
(Through the Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi – 110001.

2. The Assistant Commissioner
of Customs (Appraising),
Custom House,
Goa 403 803
Mormugao Harbour,

... Respondents

Mr. H. K. Maingi, Advocate for the petitioner.

Mr. C. A. Ferreira, Advocate for the respondent no.2.

**Coram:- F. M. REIS &
K. L. WADANE, JJ.**

Date:- 14th March, 2016

ORAL JUDGMENT (Per F. M. Reis, J)

Heard Mr. H. K. Maingi, learned counsel appearing for the petitioner and Mr. C. A. Ferreira, learned counsel appearing for the respondent no.2.

2. Upon hearing Mr. H. K. Maingi, learned counsel appearing for the petitioner and Mr. C. A. Ferreira, learned counsel appearing for the respondent no.2, the main grievance of the petitioner is that though

there is a refund order in favour of the petitioner such amount has not been refunded to the petitioner despite of the respondents failing to obtain any relief of stay of such order in the appeal before the CESTAT. The learned counsel as such submits that the respondents be directed to refund such amount within eight weeks.

3. Mr. C. A. Ferreira, learned counsel appearing for the respondent no.2 points out that the amount was not paid as according to him the appeal was pending before the Appellate Tribunal.

4. Having heard the learned counsel, we find that as admittedly, no interim relief has been obtained from the Appellate Tribunal, the question of not complying with the directions to make the refund is not justifiable. Hence, the respondents are accordingly directed to pay the amount in terms of the refund order within eight weeks from today. Needless to say that any such payment shall be subject to any orders which may be passed by the Appellate Tribunal.

5. Rule stands disposed of accordingly.

6. The petitions stand disposed of accordingly.

K. L. WADANE, J.

F. M. REIS, J.

at*