

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1037 OF 2015

M/s. Kansom Exports & Others

.... Petitioners

Vs.

Union of India

.... Respondent

Mr. S.K. Jain with Ms Poonam Sharma i/by
M/s. S.K. Jain & Associates for the Petitioners.
Mr. Pradeep S. Jetly with Ms Shehnaz V. Bharucha
for the Respondent.

CORAM: S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

DATE : JULY 11, 2016

P.C:

After the petition was heard for some time and we invited the attention of Mr. Jain to an appellate remedy, which is admittedly available, Mr. Jain would submit that the order impugned in this writ petition is an *ex parte* order passed on 30-11-2010 and the writ petition was filed in this Court under a legal advise on 5-11-2014. Now the appellate remedy is time barred and therefore the petitioners would not get justice if they

knock on the doors of the Appellate Authority. We do not think that this is a correct understanding and reading of the law. In the event an appeal is preferred before the Tribunal even now, in terms of the powers conferred upon the Tribunal under Section 19 of the Foreign Exchange Management Act, 1999, the Tribunal can be satisfied that there is sufficient cause for not filing it within the period of limitation prescribed by law. We have no doubt in our mind that if such a cause is made out and which, in the opinion of the Tribunal is sufficient, then, the Tribunal shall entertain the appeal on merits and in accordance with law. Granting that liberty to file an appeal and to move an application for condonation of delay therein, we dismiss this petition. We express no opinion on the rival contentions as far as merits of the case are concerned.

(DR. SHALINI PHANSALKAR-JOSHI, J.)

(S.C. DHARMADHIKARI, J.)