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

WRIT PETITION NO. 3107 OF 2016

Shri Vikram S. Kirloskar	...Petitioner
<i>Versus</i>	
Directorate of Enforcement	...Respondent

Mr. Girish Kulkarni, with Mr. Ashish Singh, i/b M/s. Shukla & Associates for Petitioner.
Mr. Dushyant Kumar for Respondent.

**CORAM: A.S. OKA AND
RIYAZ I. CHAGLA, JJ.**
DATED: 27th September 2017

PC:-

1. By this Writ Petition under Article 226 of the Constitution of India, the Petitioner has challenged the show cause notice dated 31st October 2015 issued to him by the Deputy Director of the Directorate of Enforcement. In the show cause notice, the Petitioner and two others have been called upon to show cause within 30 days from the date of receipt of the notice as to why adjudication proceedings under Section 13 of the Foreign Exchange Management Act, 1999 (for short "**FEMA**") should not be initiated against them for various violations. The second challenge in this Petition is

to the complaint under Section 16(3) of FEMA filed by the Assistant Director of Directorate of Enforcement on 18th September 2014 praying for initiation of adjudication proceedings against the Petitioners for the contraventions under Section 13 of the Foreign Exchange Management Act, 1999. The show cause notice dated 31st October 2014 and complaint dated 18th September 2014 have been challenged after lapse of about two years in a Petition which is affirmed on 17th September 2016.

2. The submission of the learned counsel appearing for the Petitioner is that though the Petitioner was a Director of the Company The Mysore Kirloskar Limited, he resigned as a Director with effect from 29th December 2000 as can be seen from the Form 32 annexed at Exhibit C to the Petition. He submitted that the Petitioner is not concerned with the alleged transactions. He pointed out that subsequently similar notices have been issued and some of the notices have been issued during the pendency of this Petition. He also pointed out that the High Court of Karnataka at Bengaluru has passed an order of winding up of the Company and official liquidator has

been appointed who is in-charge of the entire record of the Company.

3. Apart from the issue of delay of two years, in our view, even on merits, no case is made out for an interference at this stage, when the show cause notices and the complaint are pending. In fact the learned counsel appearing for the Petitioner states that adjudication proceedings have commenced. Even assuming that the Petitioner tendered resignation as on 29th December 2000, from the complaint which is the subject matter of the challenge, we find that there are several remittances in foreign exchange on the dates prior to the date of alleged resignation of the Petitioner.

4. If according to the case of the Petitioner, the official liquidator appointed under the orders of the Karnataka High Court is not making record available for defending the proceedings, the Petitioner is not without any remedy.

5. Hence in our view, no case of interference in the writ jurisdiction is made out. We may make it clear that we have made no adjudication on the subsequent notices served to

the Petitioner and it is for the Petitioner to challenge the same in accordance with law. We also make it clear that we have made no adjudication on merits of the allegations made in impugned show cause notice and impugned complaint and all defences of the Petitioner are kept open. Subject to what is observed above, the Writ Petition is rejected.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)