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

WRIT PETITION NO. 527 OF 2018

Hukumchand Harakchand Jain & Anr. ... Petitioners
V/s.
Union of India & Anr. ... Respondents

Mr. Chirag Shetty, I.b Economic Laws Practice for the Petitioners.
Mr. A.R. Singh, for the Respondents.
Mr. Santosh Kumaran, Enforcement Officer of Respondents.

**CORAM: M.S.SANKLECHA &
RIYAZ I. CHAGLA, JJ.**
DATE: 5TH OCTOBER, 2018.

PC:-

1. This Petition was on board for admission on 14th September, 2018. At that time none appeared for the Respondents. We had recorded the absence of the Respondents and directed the Petitioners to serve a copy of the order dated 14th September, 2018 upon the Respondents informing them that the Petition was listed for today and it is likely to be disposed of finally. Thus at the request of the parties, this Petition is taken up for final disposal.

2. This Petition under Article 226 of the Constitution of India seeks a direction to the Respondents to refund to the Petitioners an amount of Rs.9,50,000/- along with interest thereon in

accordance with the order dated 8th June, 1999 of the Foreign Exchange Regulation Appellate Board.

3. It is the grievance of the Petitioners that inspite of the repeated requests, the Respondents have failed to refund the amount of Rs.9,50,000/- along with interest thereon from the date when the amounts were handed to the Respondents. The Petitioners had paid the amount in the aggregate of Rs.9,50,000/- (amount of Rs.6,75,000 was paid by on 27th January, 1987 and Rs.2,75,000/- was paid on 17th December, 1993).

4. Mr. Chirag Shetty, the learned counsel for the Petitioners seeks return of the aggregate amount of Rs.9,50,000/- along with interest at 10% p.a. from the date of deposit with the Respondents. In support, he places reliance upon the decision ***Abu Moosa and Co. Vs. Union of India*¹, *M/s. R.K. Jewellers and Anr. Vs. Union of India & Ors.*² and *Prabodh G. Mehta Vs. Union of India*³.**

5. Mr. A.R. Singh, the learned counsel for the Respondents on instructions from Mr. Santosh Kumaran, Enforcement Officer states that the refund of the principal amount as sought by the

1 2014(310) E.L.T. 288 (Bom.)

2 2010(4) AIR Bom.R. 699.

3 2014(301) E.L.T. 26 (Bom.)

Petitioners would be processed within a period of 12 weeks from today. However, with regard to the payment of interest on the aforesaid amount it is submitted that no interest be ordered to be paid to the Petitioners as the Respondents have earned nothing on the above amount.

6. We find that our Court had in ***Abu Moosa (Supra)*** and ***Prabodh Mehta (Supra)*** had occasion in similar facts, directed refund of the amount received by the Respondents along with interest from the date on which the amounts were deposited with the Respondents till repayment. The Respondents before us refuse to pay interest on the ground that it has not earned any income. Interest is paid as to compensate persons who have been deprived of its amount. Thus in the present facts the Respondents are directed to grant refund aggregating to Rs.9,50,000/- along with interest thereon @ 6% p.a. from the date of payment / deposit of the Petitioner. The refund should be granted as expeditiously as possible along with interest @ 6% p.a. preferably within a period of 12 weeks from today.

7. Writ Petition is disposed of in above terms.

(RIYAZ I. CHAGLA J.)

(M.S.SANKLECHA, J.)