

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

WRIT PETITION NO. 2469 OF 2018

Kansom Exports & Ors. .. Petitioners
v/s.
Union of India, Through Special
Directorate of Enforcement ..Respondent

**WITH
WRIT PETITION NO. 392 OF 2018**

Ambika Timber Mart & Ors. .. Petitioners
v/s.
Union of India, Through Special
Directorate of Enforcement ..Respondent

Mr. S.K. Jain I/b S.K. Jain & Associates for the petitioners
Mr. Parag Vyas for the the respondent

**CORAM : M.S. SANKLECHA &
RIYAZ I. CHAGLA, J.J.
DATED : 2nd NOVEMBER, 2018.**

P.C.

1. Mr. Jain, learned Counsel appearing for the petitioners seeks leave to amend the prayer clauses in Writ Petition No.392 of 2018 so as to specify the date of the order of the Tribunal impugned before us. Leave granted. Amendment to be carried out forthwith. Re-verification is dispensed with.

2. Both these petitions have been filed against the orders passed by the Appellate Tribunal under the Foreign Exchange Management Act

(FEMA) dismissing the petitioner's application for condonation of delay in filing the appeals. Consequently also dismissing the appeals. In Writ Petition No.2469 of 2018, the impugned order of the Tribunal was passed on 20th August, 2017 while in Writ Petition No. 392 of 2018, the impugned order was passed on 10th August, 2017.

3. When the petitions came up for consideration, our attention was invited to the decision of the Apex Court in *Raj Kumar Shivhare Vs. Asstt. Director, Directorate of Enforcement, (2010) 253 ELT 3*. Therefore, the appropriate remedy to challenge the impugned orders would be an appeal under Section 35 of the FEMA. It is an undisputed position that both these petitions have been filed within a period of 120 days from the date of the impugned order of the Appellate Tribunal as provided under Section 35 of the FEMA.

4. Mr. Jain, prays that he be allowed to convert this petition into an appeal. Mr. Vyas for the respondent has no objection at this being allowed.

5. In the above circumstances, the petitioners are allowed to convert both the petitions into appeals under Section 35 of the FEMA. The petitioners would take the necessary steps including payment of

appropriate Court Fees etc. with the Registry to convert both the petitions into appeals on or before 30th November, 2018. Thereafter also complete service.

6. It is made clear that in case the above exercise is not done before 30th November, 2018, both these petitions would stand dismissed without reference to the Court.

(RIYAZ I. CHAGLA, J.)

(M.S. SANKLECHA, J.)