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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CRL.A. 422/2016 & Crl.M.A.No.7076/2016

ROHIT SEHGAL ..... Appellant

Represented by: Mr.Govind Rishi, Advocate

versus

DIRECTORATE OF ENFORCEMENT
NEW DELHI ..... Respondent

Represented by: Mr.Dadhav Chitale, Advocate for Mr.Amit Mahajan, Advocate

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

O R D E R

% **06.07.2018**

1. Vide order dated 14th March, 2014, the Adjudicating Authority passed an order against the petitioner imposing a penalty of ₹15 lakhs for contravention of Section 3(a) and 4 of FEMA, 1999 dropping other charges under Regulation 3 of Foreign Exchange Management (foreign currency account by a person resident in India) Regulations 2000, Regulation 4 and 5 of Foreign Exchange Management (realisation, repatriation and surrender of foreign exchange) Regulations, 2000. Aggrieved by the said order of the Adjudicating Authority, the appellant approached the Appellate Tribunal for Foreign Exchange. In the appeal preferred, the appellant filed an application for waiver of pre-deposit of the penalty which was disposed of vide order dated 26th February, 2016 directing the appellant to deposit 10% of the amount of penalty imposed against the appellant and to furnish a reliable

security for 50% of the total amount of the penalty imposed to the satisfaction of Enforcement Director. Hence the present appeal seeking waiver of the pre-deposit.

2. The petitioner prefers the present appeal both on merits as well as seeking waiver of the pre-deposit. As regards the merits since the appeal is pending before the Appellate Tribunal, the appellant would be at liberty to urge the grounds available to him. Thus, the only issue to be considered by this Court is whether the order dated 26th February, 2016 directing the appellant to deposit 10% of the penalty and furnish reliable security for the 50% of the total amount of penalties amounts to extreme hardship and needs to be modified.

3. The appellant on affidavit has stated that all his accounts were frozen and thus he has no money to survive. He has further placed on record his bank statement which shows that except the present earnings of the appellant which he claims to be from consultancy, the appellant does not have money deposited in his accounts or any assets from which pre-deposit can be made. In response to the affidavit filed by the appellant, this Court had directed the respondent to submit a report. A report from Chief Manager, Punjab National Bank, Asaf Ali Road has been placed on record according to which Account Nos.0993000100128317 and 0993000100095974 in the name of the appellant are frozen even as on date i.e. 6th July, 2018. The appellant has also placed on record statements of three other accounts which are frozen for which though no status report has been filed but the freezing of the said accounts is not disputed by learned counsel for the respondent.

4. Considering the penury condition of the appellant, this Court deems it fit to modify the order dated 26th February, 2016 to the extent that the furnishing of the security for 50% of the total amount of penalty imposed is waived. Thus, the appeal filed by the appellant before the Appellate Tribunal for Foreign Exchange be heard on the appellant depositing 10% of the amount of penalty i.e. ₹1,50,000/- within a period of six weeks from today.

5. Appeal and application are disposed of.

6. Order dasti.

MUKTA GUPTA, J.

JULY 06, 2018

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