

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 602 OF 2019

Patrick Gabriel Byrne & anr.

... Petitioners

V e r s u s

Union of India
Ministry of Finances,
Govt. of India & 2 Ors.

... Respondents

Mr. T. Vaz, Advocate for the Petitioners.

Mr. Nikhil Vaze, Advocate for the Respondent nos.2 and 3.

Coram :- M. S. SONAK &
 C. V. BHADANG, JJ.

Date : 4th November, 2019.

ORAL ORDER

1. Heard Mr. T. Vaz, the learned Counsel for the petitioners and Mr. Vaze, the learned Counsel for the respondent nos.2 and 3.

2. The challenge in this petition is to the order dated 10.10.2014 made by the Assistant Director of Enforcement

(Adjudicating Authority) in terms of the Foreign Exchange Management Act, 1999 (FEMA, for short).

3. Mr. Vaze, the learned Counsel for the respondent nos.2 and 3 pointed out that against the impugned order, the petitioner has a remedy by way of an appeal to the Special Director (Appeals) in terms of Section 17 of FEMA. He pointed out that such an appeal has to be normally instituted within 45 days but the proviso to Section 17(3) empowers the Special Director (Appeals) to entertain an appeal after the expiry of the said period of 45 days, if he is satisfied that there was sufficient cause for not filing the appeal within that period.

4. Mr. Vaz, the learned Counsel for the petitioners, makes submissions with regard to the steps taken by the petitioner after the receipt of the impugned order. He pointed out that an application was made for setting aside the impugned order on the grounds that it was in violation of the principles of natural justice and, such application was disposed off only in the year 2019.

5. According to us, since the petitioner has alternate and efficacious remedy by way of an appeal available under the FEMA, it would not be appropriate to entertain the present petition. The proviso to Section 17(3) provides for condonation of delay if sufficient cause is made out. Accordingly, it would be open to the petitioners to seek such condonation of delay before the Appellate Authority by making out a case of sufficient cause.

6. We, therefore, dismiss this petition with liberty to the petitioners to institute appeal against the impugned order and seek condonation of delay in filing the appeal.

7. We clarify that we have not gone into the merits of the petition and, therefore, all the contentions of all the parties are left open.

C. V. BHADANG, J.

M. S. SONAK, J.

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