

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2019

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.Nos.20175 and 20176 of 2007
and
M.P.Nos.1 and 2 of 2007

M.D.Eusuffal Elias Saithh ..Petitioner
in W.P.No.20175 of 2007

M/s.Alsa Marine & Harvest Ltd.,
AF-54, 11th Main Road,
Anna Nagar, Chennai - 600 040,
Rep.by its M.D.Eusuffal Elias Saithh ..Petitioner
in W.P.No.20176 of 2007

Vs

1.The Appellate Tribunal for Foreign Exchange
Ministry of Law, Justice & Company Affairs,
Government of India, Janpath Bhavan,
New Delhi - 110 001.

2.The Deputy Director of Enforcement,
Directorate of Enforcement
(Foreign Exchange Management Act),
Government of India, Shastri Bhavan,
3rd Floor, 3rd Block,
26, Haddows Road, Chennai - 600 006.

.. Respondents
(in both W.Ps)

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent passed in Appeal Nos.679/05 & 678/05 dated 17.5.2007, dismissing the appeal of the petitioner for non-compliance of predeposit condition as arbitrary, illegal and against the principles of natural justice, quash the same, restore the appeal and direct the first respondent to hear the appeal on merits without insisting for predeposit.

For Petitioners : Mr.B.Satish Sundar
(in both W.Ps)

For Respondents : Mr.V.Parivallal
(in both W.Ps)

C O M M O N O R D E R

Heard Mr.B.Satish Sundar, learned counsel for the petitioners, Mr.V.Parivallal, learned counsel for the respondents and perused the materials available on record.

2. The order impugned in these writ petitions is the dismissal of the appeals filed by the petitioners before the first respondent for non-compliance of the order dated 20.2.2007.

3. As per Section 52(2) of the Foreign Exchange Regulation Act, an appeal could be entertained on deposit of the penalty imposed under Section 50 of the Act. Tribunal by an order dated 20.02.2007 permitted one of the appellants to furnish unconditional bank guarantee for the amount of penalty and directed the other appellant to deposit the entire penalty amount within a period of thirty days. However, due to non-compliance of the order, the appeals came to be dismissed.

4. The Discretionary power exercised by the tribunal is not found to be perverse or arbitrary. Hence, I find no merit in these writ petitions. Accordingly, they are dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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To

Sub Assistant Registrar

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LN(CO)
GMY(23/09/2019)



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