$~ 11 to 13 *(common order)*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 8th August, 2019

+ **CRL.A. 793/2019**

RAJINDER SINGH DUGGAL ..... Appellant

Through: Mr. Ramesh Kumar Ajmani, Adv.

versus

JOINT DIRECTOR ENFORCEMENT DIRECTORATE, GOVERNMENT OF INDIA ..... Respondent

Through: Mr. Amit Mahajan, CGSC/UOI with Mr. Arjun Dev, Advocate

+ **CRL.A. 794/2019**

SUNIL GUPTA ..... Appellant

Through: Mr. Ramesh Kumar Ajmani, Adv.

versus

JOINT DIRECTOR, ENFORCEMENT DIRECTORATE, GOVERNMENT OF INDIA ..... Respondent

Through: Mr. Amit Mahajan, CGSC/UOI with Mr. Arjun Dev, Advocate

+ **CRL.A. 795/2019**

VISHAL ARORA ..... Appellant

Through: Mr. Ramesh Kumar Ajmani, Adv.

versus

JOINT DIRECTOR, ENFORCEMENT DIRECTORATE,
GOVERNMENT OF INDIA ..... Respondent

Through: Mr. Amit Mahajan, CGSC/UOI with Mr. Arjun Dev, Advocate

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. By order in original dated 30.03.2017, the adjudicating authority under the Foreign Exchange Management Act, 1999 (FEMA), in exercise of its jurisdiction under section 16 imposed penalties under section 13 against the appellants herein, appellant Rajinder Singh Duggal (Crl.A.793/2019) being directed to pay Rs.30 lacs, his firm M/s. Cheap Cloth Store being asked to deposit Rs.70 lacs, appellant Sunil Gupta (Crl.A.794/2019) being asked to pay penalty of Rs.8 lacs, his business run in the name of M/s. Queen Forex Pvt. Ltd. being burdened with penalty of Rs.25 lacs, and appellant Vishal Arora (Crl.A.795/2019) being called upon to pay penalty of Rs.50 lacs.

2. The said order imposing the penalties was challenged by these appellants before the appellate tribunal constituted under section 18 of FEMA. While presenting the said appeals, applications were also made for waiver of the statutory condition of pre-deposit under section 19(1) of FEMA. The Appellate Tribunal, by its order dated 15.11.2018 accepted the prayer for waiver of the condition of pre-

deposit in respect of entities named M/s. Cheap Cloth Store and M/s. Queen Forex Pvt. Ltd., but directed the three individuals – appellants herein – to make the deposits under the general rule contained in first proviso to section 19(1) of FEMA. The said order was neither challenged by appeal nor complied with.

3. The abovesaid appeals came before the appellate tribunal for consideration on 08.05.2019. Noting the non-compliance with the direction for pre-deposit, the appellate tribunal declined to entertain the same further and, thus, dismissed the appeals of the appellants. It is the said order dated 08.05.2019 which is challenged by the present appeals brought under section 35 of FEMA.

4. The learned counsel for the respondent had earlier taken exception to the maintainability of these appeals at the outset, his submissions having been recorded in the proceedings on 11.07.2019 to the effect that the appellants are belated with reference to the order dated 15.11.2018 which, even otherwise, had not been challenged, the orders sought to be impugned by these appeals being only consequential.

5. At the hearing, the counsel for the appellants was asked if they are now willing to make the pre-deposits as was directed by the appellate tribunal by its order dated 15.11.2018. The counsel answered in the negative taking the position that the appeals at hand raise questions of law.

6. The order dated 15.11.2018 having attained finality, the appellate tribunal had no option left but to dismiss the appeals on

account of non-compliance with the condition of pre-deposit. The impugned order dated 08.05.2019 does not give rise to any question of law.

7. The appeals are, thus, dismissed.

R.K.GAUBA, J.

AUGUST 08, 2019
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