

\$~78

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

+ **W.P.(C) 2252/2015 and CM Nos. 4022/2015 & 12037/2017**

K. MOHAMMED IMRAN

..... Petitioner

Through: Mr Saurabh Prakash and Mr Utsav
Jain, Advocates.

versus

DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr Kirtiman Singh, CGSC with Mr
Waize Ali Noor, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

09.08.2019

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 16.10.2014 passed by the Appellate Tribunal for Foreign Exchange (hereafter 'the Tribunal'), directing that the petitioner's appeal be placed before a Regular Division Bench of the Tribunal for final hearing on 09.12.2014.
2. According to the petitioner, the impugned order is erroneous as the petitioner's appeal (Appeal No. 1064/2004) was required to be heard by a Full Bench. The said appeal was heard by a Division Bench comprising of the Chairperson and a member. The Chairperson had passed a detailed order dated 26.08.2009, allowing the petitioner's appeal and setting aside the order dated 25.08.2004 passed by the Adjudicating Authority.
3. The learned member had not agreed with the said view and had passed a separate order dated 05.01.2010, upholding the decision of the

Appellate Authority whereby penalty had been imposed on the petitioner.

4. The Tribunal (a division bench) had come to the conclusion that notwithstanding the two opinions, the matter was not required to be placed before a larger bench as, according to it, the said orders had not been pronounced. This is contested by the petitioner.

5. A plain reading of the order dated 26.08.2009 passed by the Chairperson indicates that it is a detailed order. The certified copy of the said order, which is placed on record, also indicates that the said order was signed, although the signatures of the Chairperson have been masked. Similarly, the certified copy of the order dated 05.01.2010 passed by the learned member of the Tribunal also indicates that the same was signed. More importantly, the petitioner had obtained certified copies of the said orders, which form a part of the record.

6. In view of the above, it is difficult to accept that the said orders are not operative. There is merit in the petitioner's contention that the said orders cannot be ignored on the ground that the same have not been pronounced (although, even this fact is disputed).

7. In view of the above, Mr Singh, the learned counsel appearing for the respondents had sought time to obtain instructions whether a bench of three members could be constituted to hear the matter. He states, on instruction, that it is possible to hear the petitioner's appeal before 31.08.2019 by a bench of three members, comprising of the Chairperson and other two members.

8. In view of the above, the present petition is allowed. The Chairperson of the Tribunal is directed to constitute a bench of three members as expeditiously as possible in order to finally hear and decide the petitioner's appeal on or before 31.08.2019.

9. Pending applications are also disposed of.

10. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

AUGUST 09, 2019
RK