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

+ W.P.(C) 4076/2017 & CM No.17903/2017

UMED SINGH BAID

..... Petitioner

Through : Ms. Aakanksha Kaul, Mr. Piyush
Kaushik and Mr. Parth Shikhar, Advs.

versus

UNION OF INDIA AND ANR

..... Respondents

Through : Mr. Amit Mahajan, CGSC with
Mr.Dhruv Pande, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

12.02.2020

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1. Mr. Amit Mahajan, who appears on behalf of the respondents, has raised a preliminary objection to the maintainability of the writ petition.

1.1 According to Mr. Mahajan, a remedy of statutory appeal is available to the petitioner under Section 35 of the Foreign Exchange Management Act, 1999 (in short "FEMA").

1.2 It is also Mr. Mahajan's contention that the appeal of the petitioner will be maintainable as per the said provision in the High Court, in which the appellant (in this case the petitioner) ordinarily resides or carries on business or personally works for gain.

1.3 In support of his plea, Mr. Mahajan relies upon the judgment of the Supreme Court in the matter of *Raj Kumar Shivhare v. Assistant Director, Directorate of Enforcement & Anr., (2010) 4 SCC 772*.

2. To be noted, the interim protection was granted to the petitioner by

my predecessor on 12.05.2017. This order was continued, thereafter, till today. Despite the respondents' counsel having entered appearance as far back as on 04.09.2017, the objection as to the maintainability of the writ petition has been raised for the first time by the respondents.

3. Ms. Aakanksha Kaul, who appears on behalf of the petitioner, says that given the aforestated objection, she will withdraw the writ petition and take recourse to the statutory remedy as provided in FEMA.

3.1 Ms. Kaul, however, says that this Court could consider granting a leeway of four weeks to do the same and, in the meanwhile, continue the interim protection granted for the said period.

4. Accordingly, the captioned writ petition is dismissed as withdrawn.

5. The interim order passed by this Court will continue to operate for a period of four weeks from today.

6. In case, the petitioner does not approach the concerned High Court within this time-frame, the interim protection granted by this Court will dissolve automatically.

7. Needless to add, the concerned High Court will pass an order on merits in the appeal, if any, filed by the petitioner as this Court has not examined the matter from that perspective.

8. I may only emphasise that all the contentions of the parties are left open.

9. Resultantly, the pending interlocutory application shall stand closed.

10. *Dasti* under the signatures of the Court Master.

RAJIV SHAKDHER, J

FEBRUARY 12, 2020/aj

W.P.(C) 4076/2017

page 2 of 2