



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.09.2021

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. Nos. 27190 and 30760 of 2015 and
M.P Nos. 1 to 3 of 2015 and
M.P. Nos. 1 and 2 of 2015

A. Sahubar Sadik,
Old No.45, New No.54,
Ground Floor,
Mohammed Hussain Street,
Royapettah,
Chennai - 600 014.

.. Petitioner in W.P. No. 27190 of 2015

A. Sahubar Sadik
Old No.23, New No.11,
Flat No.8, 2nd Floor,
Thayar Sahib Street,
2nd Lane, Anna Salai,
Chennai - 600 002.

.. Petitioner in W.P. No. 30760 of 2015

-Vs-

- 1.The Union of India,
Represented by Secretary Ministry of Finance,
Department of Revenue,
New Delhi - 110 001.
- 2.The Directorate ,
Directorate of Enforcement,
Lok Nayak Bhavan, Khan Market,
New Delhi - 110 003.
- 3.The Special Director,
Directorate of Enforcement,
6th floor, Lok Nayak Bhavan,
Khan Market, New Delhi - 110 003.
- 4.The Joint Director,
Directorate of Enforcement ,
Chennai Zonal Office,
3rd Floor, C-Block, Murugesu Naicker Complex,
84 Greaves Road, Thousand Light,
Chennai - 600 006.



5.The Assistant Director(Adjudication),
Directorate of Enforcement,
Southern Regional Office,
Government of India,
Shastri Bhavan, III Block, 3rd Floor,
26 Haddows Roadm Chennai - 600 006.

.. Respondents in W.P. No. 27190 of 2015

1.The Union of India,
Represented by Secretary Ministry of Finance,
Department of Revenue, New Delhi - 110 001.

2.The Directorate ,
Directorate of Enforcement,
Lok Nayak Bhavan, Khan Market,
New Delhi - 110 003.

3.The Special Director,
Directorate of Enforcement,
Shastri Bhavan, IIIrd floor, 3rd Floor,
26, Haddows Road, Chennai - 600 006.

4.The Assistant Director,
Directorate of Enforcement,
Southern Regional Office,
Government of India,
Shastri Bhavan, IIIrd Block, 3rd Floor,
26, Haddows Road, Chennai - 600 006.

.. Respondents in W.P. No. 30760 of 2015

PRAYER in W.P. No. 27190 of 2015: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the Show Cause Notice No.T-4/CHE/2010 (SCN) dated 21.09.2010 issued by the third respondent and quash the same and direct the respondents to return the Indian currency of Rs.42,00,000/- with reasonable interest to the petitioner with interest or to Mr.Khader Batcha, S/o Mohammed Esa, No:72/37/1 Unnis Ali Street, Ellis Road, Chennai - 600 002, the claimant forthwith.

PRAYER in W.P. No. 30760 of 2015: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the Show Cause Notice No.T-4/09/CHE/SRO/2014 dated 05.09.2014 and quash the same and direct the respondents to return the Indian currency of Rs.44,68,050/- with reasonable interest to the petitioner.



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For Petitioners
in both W.Ps'

: Mr.B.Sathish Sundar and
Mr.Harri Viswanaath

For Respondents
in both W.Ps'

: Mr.J.Madanagopal Rao
SCGSC for R1
Mr.Rajnish Pathiyel
Senior Pancel Counsel for R2 to R5
in WP No.27190/2015 and
R2 to R4 in WP No.30760/2015

C O M M O N O R D E R

The show cause notices dated 21.09.2010 and 05.09.2014 are under challenge in these Writ Petitions.

2. The learned counsel for the petitioners made a submission that the petitioners are confining the relief as such sought for in these Writ Petitions. Accordingly, the petitioners pray for granting liberty to prefer an appeal before the competent appellate authority under Section 19 of the Foreign Exchange Management Act 1999. The learned counsel for the petitioners states that the delay is to be considered based on the period during which the Writ Petitions are pending.

3. The learned counsel for the respondents made a submission that the final order was passed in the years 2017 and 2018 respectively and the petitioners were aware of the final order and still they have not preferred any appeal so far. It is contended that under Section 19(2) of the Act, the authorities are empowered to condone the delay if the reasons furnished are convincing. However, it is contended that the petitioners are at liberty to prefer an appeal and therefore, the Writ Petitions are to be rejected.

4. The writ petitioners have restricted their prayer to the extent of granting liberty to prefer an appeal before the appellate authority.

5. This being the submissions made, this Court is inclined to pass following orders:

"The petitioners are at liberty to submit the appeal in a prescribed format and by complying with the procedures contemplated within a period of two weeks from the date of receipt of a copy of this order and in the event of filing any such appeal by the petitioners, the competent appellate authority shall condone the delay by taking into consideration the



period during which the Writ Petitions are pending before the High Court and pass appropriate orders on merits and in accordance with law."

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6. With the above directions, these Writ Petitions stand disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

RAP / vji

To

1. The Secretary Ministry of Finance,
The Union of India,
Department of Revenue,
New Delhi - 110 001.
2. The Directorate ,
Directorate of Enforcement,
Lok Nayak Bhavan, Khan Market,
New Delhi - 110 003.
3. The Special Director,
Directorate of Enforcement,
6th floor, Lok Nayak Bhavan,
Khan Market, New Delhi - 110 003.
4. The Joint Director,
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Chennai Zonal Office,
3rd Floor, C-Block,
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84 Greaves Road, Thousand Light,
Chennai - 600 006.
5. The Assistant Director (Adjudication),
Directorate of Enforcement,
Southern Regional Office,
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Shastri Bhavan, III Block, 3rd Floor,
26 Haddows Roadm Chennai - 600 006.



6.The Special Director,
Directorate of Enforcement,
Shastri Bhavan, IIIrd floor, 3rd Floor,
26, Haddows Road, Chennai - 600 006.

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+5ccs to Mr.B.Sathish Sundar, Advocate Sr Nos.51384 & 51383
+2ccs to Mr.Rajnish Pathiyil, Advocate Sr Nos.51155 & 51156

W.P. Nos. 27190 and 30760 of 2015 and
M.P Nos. 1 to 3 of 2015 and
M.P. Nos. 1 and 2 of 2015

VBM (CO)
PR (12/10/2021)