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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 2363 OF 2022

Vikrant K. Gugnani

...Petitioner

Versus

Directorate of Enforcement & Anr.

...Respondents

Mr. Sharan Jagtiani, Senior Advocate a/w Priyank Kapadia, Amogh Joshi & Ms. Prangana Barua i/b Bharucha & Partners for the Petitioner.

Mr. Hiten Venegaonkar Respondents.

**CORAM : REVATI MOHITE DERE &
MADHAV J. JAMDAR, JJ.**
DATED : 4th MAY 2022

P.C. :

1. Heard learned counsel for the parties.
2. The aforesaid petition has been filed in this Court, as the Appellate Tribunal (under the FEMA Act), is presently, not functional.
3. It appears that the Adjudicating Authority passed an order dated 7th

January 2022, by which the said authority imposed a penalty of Rs.5,00,000/- on the petitioner.

4. Learned counsel for the petitioner submits that the petitioner being aggrieved by the said order, imposing penalty on the petitioner, has filed an Appeal, before the Appellate Authority constituted under the FEMA alongwith an application seeking stay of the impugned order dated 7th January 2022, passed by the Adjudicating Authority. He submits that as the Appellate Authority is not functional, for want of a Chairperson, the petitioner is constrained to approach this Court. He submits that the petitioner without prejudice, is ready to deposit the penalty of Rs.5,00,000/- before the Appellate Authority. He further submits that till such time, that the Appellate Authority decides the stay application filed by the petitioner, the effect and operation of the impugned order dated 7th January 2022 passed by the Adjudicating Authority be stayed.

5. The aforesaid amount i.e. Rs.5,00,000/- to be deposited with the Appellate Tribunal within three weeks from today, without prejudice to the petitioner's rights and contentions in the Appeal filed before the Appellate Authority.

6. Without going into the merits of the petition, since an Appeal alongwith a stay application is pending before the Appellate Authority, we deem it appropriate to stay the effect and operation of the impugned order dated 7th January 2022 passed by the Adjudicating Authority, till such time, the stay application is decided by the Appellate Authority.

7. If an adverse order is passed in the stay application, the same shall not be given effect to for a period of one week from the date of receipt of this order.

8. We make it clear, that we have not gone into the merits of the petition and as such, all contentions of all the parties are kept open.

9. The petition is disposed of in the aforesaid terms.

10. All concerned to act on an authenticated copy of this order.

MADHAV J. JAMDAR, J.

REVATI MOHITE DERE, J.