

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1854 OF 2008

B.P. Choudhary, Proprietor of
M/s. Sun Export CorporationPetitioner

V/s.

Union of India and Ors.Respondents

Mr. Huzefa S. Khokhawala i/b. M/s. Nankani and Associates for petitioner.
None for respondents.

CORAM : K.R. SHRIRAM &
PRITHVIRAJ K. CHAVAN, JJ.

DATED : 16th JUNE 2022

P.C.:

1 Appellant is impugning an order dated 18th March 2008 passed by respondent no.2. At the time the impugned order came to be passed on 18th March 2008, Mr. Khokhawala states and as referred in the impugned order, there was a judgment of this Court in the matter of *Premier Ltd. V/s. Union of India and Ors.* by which the Court had held that the jurisdiction to hear would lie with the Special Director (Appeals) in terms of Section 17(2) of FEMA, 1999. Therefore, the submissions as recorded in the impugned order came to be made which the Tribunal rejected. The Tribunal held that an application for transfer to the newly constituted authority cannot be entertained and, therefore, the appeal itself was dismissed.

2 Mr. Khokhawala states that subsequently the Apex Court in the matter of *Union of India and Ors. V/s. Premier Ltd.*¹ overruled the judgment

1. (2019) SCC Online SC 95

of this Court and held that respondent no.2 would have jurisdiction. Mr. Khokhawala requests that in view of the subsequent development, this Court may remand the matter to respondent no.2 to decide the appeal on merits. Respondent has not filed any reply. Moreover, in our view, we can and we should grant the request made by Mr. Khokhawala.

3 Accordingly, the impugned order dated 18th March 2008 is hereby quashed and set aside. The matter is remanded to the Appellate Tribunal For Foreign Exchange to rehear the Appeal No.D-112/2003 *denovo* on merits and dispose the appeal in accordance with law.

4 We clarify that we have not made any observation on the merits of the matter.

5 Petition disposed.

(PRITHVIRAJ K. CHAVAN, J.)

(K.R. SHRIRAM, J.)