

Prajakta Vartak

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

WRIT PETITION NO. 1279 OF 2023
WITH
INTERIM APPLICATION NO. 352 OF 2023
WITH
INTERIM APPLICATION (L.) NO. 29420 OF 2022

Asit C. Mehta Financial Services Ltd. & Ors. ..Petitioners
Vs.
The Appellate Tribunal for Foreign Exchange & Ors. ..Respondents

Mr. Rohaan Cama with Mr. Abhishek Adke and Ms. Vibha Joshi for
Petitioners.
Mr. Sandesh Patil with Mr. Chintan Shah for Respondent Nos.2 & 3.

CORAM : G. S. KULKARNI &
JITENDRA JAIN, JJ.
DATE : SEPTEMBER 12, 2023.

P.C.:

1. In the year 2007, the petitioners being aggrieved by the adjudication order (Original) No.ADJ/54B/ SDE/KNR//2007/FERA dated 29 August, 2007 passed by the Special Director, have approached the Appellate Tribunal for Foreign Exchange (for short, “appellate tribunal”) by filing an appeal. Copy of the appeal is annexed at page 159 of the paper-book (Exhibit- “I”). It appears from the record that on the issue of pre-deposit, an order was passed on 05 March, 2008 by the appellate tribunal. Aggrieved by such order of pre-deposit the petitioners had approached this Court in Writ Petition No. 1429 of 2008 which was

disposed of by a Division Bench of this Court on 16 July, 2008, whereby the petitioners were required to furnish a bank guarantee of amount of Rs. 1,35,00,000/- as a condition of pre-deposit on the petitioners appeal filed appellate before the tribunal. The petitioners have renewed the bank guarantee from time to time.

2. As the tribunal was not functional, the petitioners had filed the present petition praying for the following reliefs:-

“(a) that this Hon’ble Court be pleased to issue a Writ of Certiorari, or a Writ in the nature of Certiorari, or any other appropriate Writ, Order or direction under Article 226 of the Constitution of India, calling for the papers and proceedings leading to the passing of the Impugned Order dated 29th August 2007 (Exhibit H hereto) and after going into the legality, validity and propriety thereof, to quash and set aside the same;

(b) that in the alternative to prayer (a) above, this Hon’ble Court be pleased to permit the Petitioners to furnish a Corporate Guarantee or a Bond of Rs.1,35,00,000/- in lieu of the Bank Guarantee for the same amount furnished pursuant to the Order dated 16th July, 2008 of this Hon’ble Court in Writ Petition No. 1429 of 2008;

(c) ad-interim and interim reliefs in terms of prayers (a) and (b) above.”

3. On the backdrop of the previous orders passed by the co-ordinate Benches of this Court, the proceedings are listed before us today. We note from the previous orders passed on this petition that the Court had inquired from the respondents on the constitution of the Appellate Tribunal when it categorically observed that the appeal of the petitioners was pending for many years. It appears that while present proceedings had

remained pending, the efforts were being made to make the Appellate Tribunal functional. We also note that in the meantime, the petition also came to be dismissed for want of prosecution which subsequently came to be restored.

4. Be that as it may, today the respondents are before us to inform that the Appellate Tribunal under SAFEMA at New Delhi has now been constituted and is fully functional. Our attention is also drawn to an order of a recent origin dated 30 May, 2023 passed by the appellate tribunal on appeals filed by the petitioners. Copy of the said order is placed on record.

5. As now the appellate tribunal has been constituted, we find it appropriate that the appellate tribunal, which is seisin with the appeal proceedings filed by the petitioners, adjudicates the appeals as expeditiously as possible and in any event within a period of three months from the date this order is presented before the tribunal. This for the reason that the appeals are pending for almost 16 years.

6. All contentions of the parties including the interim orders which are passed in the previous proceedings are continued to operate till the final adjudication of the appeals.

7. Ordered accordingly.

8. Disposed of in the above terms. No costs.

9. Interim Application No. 352 of 2023 and Interim Application (L.) No. 29420 of 2022 would not survive as the petition has been disposed of. The same are disposed of accordingly.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]