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

\+ W.P.(C) 10047/2024, CM APPL. 41062/2024

JOGINDER SINGH .....Petitioner

Through: Mr. Prem Ranjan Kumar, Advocate.

versus

THE JOINT DIRECTOR DIRECTORATE OF ENFORCEMENT .....Respondent

Through: Mr., Vivek Gurnani and Mr. Kanishk Maurya, Advocates for ED.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 23.07.2024

1. The Petitioner preferred an appeal under Section 19 of the Foreign Exchange Management Act, 1999[1] before the Appellate Tribunal for Foreign Exchange bearing No. FPA-FE-68/DLI/2015 against Adjudication order-in-original No. ADJ/03/FENA/DZ/2015/JD (AR) 47 dated 31st March, 2015 read with Corrigendum dated 2nd July, 2015 passed by Joint Director, Directorate of Enforcement.

2. In terms of first proviso to Section 19(1) of the Act, the Petitioner is required to deposit the penalty amount of INR. 25,00,000/-. On Petitioner's request for relaxation under the second proviso to Section 19(1) of the Act, the Appellate Tribunal agreed to entertain the appeal, subject to deposit of

[1]"the Act"

Rs. 12.50 lakhs, 50 percent of the penalty amount, as a pre-condition.

3. The Petitioner states that due to acute financial difficulty, the directions for pre-deposit could not be complied with and as a result Petitioner's appeal was dismissed for non-prosecution on 4th March, 2024. Subsequently, the Petitioner's application for restoration of the appeal was also dismissed through order dated 7th May, 2024.

4. The present writ petition assails the aforenoted orders of dismissal of the appeal for non-prosecution and restoration of the appeal. The Petitioner cites financial problem for the lapse on his part and assures that in case the Court were to grant the relief, the Petitioner shall positively comply with the condition of pre-deposit within a period of three weeks from today.

5. The aforenoted request of the Petitioner is strongly opposed by counsel for the Respondent.

6. The observations made by the Appellate Tribunal pointing out the gross delay on the part of the Petitioner of nearly more than 15 months cannot be faulted with. However, taking a lenient view in the matter, since the Petitioner's statutory remedy of appeal is in question and the Petitioner has given an undertaking to the Court that they shall deposit the pre-deposit within a period of three weeks from today, the Court is inclined to allow the Petitioner's request.

7. In light of the present writ petition is disposed of with the following directions:

a. Petitioner shall within three weeks from today deposit the pre-deposit amount of Rs. 12.5 lakhs with the Appellate Tribunal under SAFEMA.

b. Subject to the above deposit, the appeal of the Petitioner shall be restored to its original number and taken up for hearing by the Appellate

Tribunal and adjudicated on its own merit.

SANJEEV NARULA, J

JULY 23, 2024
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