

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

FEMA APPEAL NO. 1 OF 2024

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director

.. Appellant

Versus

Canara Bank

.. Respondent

**WITH
FEMA APPEAL (L) NO. 992 OF 2020
WITH
INTERIM APPLICATION NO. 577 OF 2020
IN
FEMA APPEAL (L) NO. 992 OF 2020**

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director

.. Appellant

Versus

Standard Chartered Grindlays Ltd.

.. Respondent

**WITH
FEMA APPEAL (L) NO. 1115 OF 2020
WITH
INTERIM APPLICATION NO. 700 OF 2020
IN
FEMA APPEAL (L) NO. 1115 OF 2020**

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director

.. Appellant

Versus

T. R. Subramaniam

.. Respondent

**WITH
FEMA APPEAL (L) NO. 1117 OF 2020
WITH**

**INTERIM APPLICATION 701 OF 2020
IN
FEMA APPEAL (L) NO. 1117 OF 2020**

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director

.. Appellant

Versus

Standard Chartered Grindlays Ltd.

.. Respondent

**WITH
FEMA APPEAL (L) NO. 1119 OF 2020
WITH
INTERIM APPLICATION NO. 702 OF 2020
IN
FEMA APPEAL (L) 1119 OF 2020**

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director

.. Appellant

Versus

Girija Pande

.. Respondent

**WITH
FEMA APPEAL (L) NO. 1120 OF 2020
WITH
INTERIM APPLICATION NO. 703 OF 2020
IN
FEMA APPEAL (L) NO. 1120 OF 2020**

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director

.. Appellant

Versus

Raul Pereira, Customer Service
Officer

.. Respondent

**WITH
FEMA APPEAL (L) NO. 1121 OF 2020
WITH
INTERIM APPLICATION NO. 704 OF 2020**

**IN
FEMA APPEAL (L) NO. 1121 OF 2020**

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director .. Appellant

Versus

Mr. Sunil Ganpat Sawant .. Respondent

**WITH
FEMA APPEAL (L) NO. 1122 OF 2020
WITH
INTERIM APPLICATION NO. 706 OF 2020
IN
FEMA APPEAL (L) NO. 1122 OF 2020**

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director .. Appellant

Versus

Mrs. Preetha Sundaram Country Manager .. Respondent

**WITH
FEMA APPEAL (L) NO. 1123 OF 2020
WITH
INTERIM APPLICATION NO. 707 OF 2020
IN
FEMA APPEAL (L) NO. 1123 OF 2020**

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director .. Appellant

Versus

R. B. Dhage Officer .. Respondent

**WITH
FEMA APPEAL (L) NO. 1124 OF 2020
WITH
INTERIM APPLICATION NO. 709 OF 2020
IN
FEMA APPEAL (L) NO. 1124 OF 2020**

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director

.. Appellant

Versus

Allwyn Roche Officer

.. Respondent

WITH
FEMA APPEAL (L) NO. 1125 OF 2020
WITH
INTERIM APPLICATION NO. 1441 OF 2020
IN
FEMA APPEAL (L) NO. 1125 OF 2020

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director

.. Appellant

Versus

Mrs. Preetha Sundaram Country Manager

.. Respondent

WITH
FEMA APPEAL (L) NO. 1126 OF 2020
WITH
INTERIM APPLICATION NO. 711 OF 2020
IN
FEMA APPEAL (L) NO. 1126 OF 2020

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director

.. Appellant

Versus

Standard Chartered Grindlays Ltd.

.. Respondent

WITH
FEMA APPEAL (L) NO. 1127 OF 2020
WITH
INTERIM APPLICATION NO. 712 OF 2020
IN
FEMA APPEAL (L) NO. 1127 OF 2020

Directorate of Enforcement
Ministry of Finance thr. the

Assistant Director	.. Appellant
Versus	
Girija Pande General Manager	.. Respondent

WITH
FEMA APPEAL (L) NO. 1128 OF 2020
WITH
INTERIM APPLICATION NO. 713 OF 2020
IN
FEMA APPEAL (L) NO. 1128 OF 2020
WITH
FEMA APPEAL (L) NO. 1129 OF 2020
WITH
INTERIM APPLICATION NO. 714 OF 2020
IN
FEMA APPEAL (L) NO. 1129 OF 2020

Directorate of Enforcement	
Ministry of Finance thr. the	
Assistant Director	.. Appellant
Versus	
Standard Chartered Grindlays Ltd.	.. Respondent

WITH
FEMA APPEAL (L) NO. 1130 OF 2020
WITH
INTERIM APPLICATION NO. 715 OF 2020
IN
FEMA APPEAL (L) NO. 1130 OF 2020

Directorate of Enforcement	
Ministry of Finance thr. the	
Assistant Director	.. Appellant
Versus	
Standard Chatered Bank	.. Respondent

WITH
FEMA APPEAL (L) NO. 1131 OF 2020
WITH
INTERIM APPLICATION NO. 716 OF 2020
IN
FEMA APPEAL (L) NO. 1131 OF 2020

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director .. Appellant
Versus
Standard Chartered Grindlays Ltd. .. Respondent

WITH
FEMA APPEAL (L) NO. 1132 OF 2020
WITH
INTERIM APPLICATION NO. 717 OF 2020
IN
FEMA APPEAL (L) NO. 1132 OF 2020

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director .. Appellant
Versus
Mr. Rajagopalan Ram Kumar Officer
in charge of Remittance Section .. Respondent

WITH
FEMA APPEAL (L) NO. 1133 OF 2020
WITH
INTERIM APPLICATION NO. 718 OF 2020
IN
FEMA APPEAL (L) NO. 1133 OF 2020

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director .. Appellant
Versus
Navin Puri Branch Manager .. Respondent

WITH
FEMA APPEAL NO. 4 OF 2023

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director .. Appellant

Versus
Canara Bank .. Respondent

WITH
FEMA APPEAL NO. 6 OF 2024

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director ..Appellant

Versus
M. M. Chungath .. Respondent

WITH
FEMA APPEAL NO. 10 OF 2024
WITH
FEMA APPEAL NO.7 OF 2024

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director .. Appellant

Versus
S. A. Lakshmi .. Respondent

WITH
FEMA APPEAL NO. 2 OF 2024

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director .. Appellant

Versus
M. M. Chungath .. Respondent

WITH
FEMA APPEAL NO. 3 OF 2024

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director .. Appellant

Versus
P. Upadhyaya .. Respondent

WITH
FEMA APPEAL NO. 4 OF 2024

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director

.. Appellant

Versus

M. M. Chungath

.. Respondent

**WITH
FEMA APPEAL NO. 9 OF 2024
WITH
FEMA APPEAL NO. 8 OF 2024**

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director

.. Appellant

Versus

S. A. Lakshmi

.. Respondent

**WITH
FEMA APPEAL NO. 5 OF 2024
WITH
FEMA APPEAL NO. 5 OF 2023**

Directorate of Enforcement
Ministry of Finance thr. the
Assistant Director

.. Appellant

Versus

M/s. Canara Bank

.. Respondent

Adv. Ashish Chavan a/w Adv. Zishan Quazi, for Appellant.

**Senior Adv. Amit Desai, a/w. Gopalkrishna Shenoy, Adv. Abhay Jadeja,
Adv. Arun Unnikrishnan, Adv. Vanshika Shroff, Adv. Ishani Saxena i/b.
Jadeja and Satiya for Respondent/ Standard Standard Grindlays Ltd.**

Adv. Vivek Sharma for Respondent/ Canara Bank.

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE: MAY 2, 2025

P. C.

1. The Respondent, i.e. Paul Pereira expired on 05.09.2010, as set out in paragraph No.114 of the Order and Judgment dated 20.09.2019 passed by the Appellate Tribunal in the matter of Standard Chartered Grindlays Limited (correctly described as Standard Chartered Grindlays Pty Limited) ("**Judgment in SCB matters**"). As such, Interim Application No.703 of 2020 and FEMA Appeal (St) No.1120 of 2020, abate and are disposed off.

2. The challenge in FEMA Appeal (St) No.992 of 2020, FEMA Appeal (St) No.1117 of 2020, FEMA Appeal (St) No.1126 of 2020, FEMA Appeal (St) No.1128 of 2020, FEMA Appeal (St) No.1129 of 2020, FEMA Appeal (St) No.1130 of 2020, FEMA Appeal (St) No.1131 of 2020, FEMA Appeal (St) No.1122 of 2020, FEMA Appeal (St) No.1125 of 2020, FEMA Appeal (St) No.1127 of 2020, FEMA Appeal (St) No.1123 of 2020, FEMA Appeal (St) No.1121 of 2020, FEMA Appeal (St) No.1115 of 2020, FEMA Appeal (St) No.1119 of 2020, FEMA Appeal (St) No.1124 of 2020, FEMA Appeal (St) No.1132 of 2020 and FEMA Appeal (St) No.1133 of 2020 is to the Judgment in SCB matters.

3. The challenge in FEMA Appeal No.4 of 2023, FEMA Appeal No.5

of 2023, FEMA Appeal No.1 of 2024, FEMA Appeal No.2 of 2024, FEMA Appeal No.3 of 2024, FEMA Appeal No.4 of 2024, FEMA Appeal No.5 of 2024, FEMA Appeal No.6 of 2024, FEMA Appeal No.7 of 2024, FEMA Appeal No.8 of 2024, FEMA Appeal No.9 of 2024 and FEMA Appeal No.10 of 2024 is to the Judgment dated 20.09.2019 passed by the Appellate Tribunal in the matters of Canara Bank ("**Judgment in Canara Bank matters**").

4. We have heard Learned Counsel Ashish Chavan for the Appellant, Enforcement Directorate in all the Appeals, Learned Senior Counsel Amit Desai appearing for the Respondents (who are served) in the Appeals challenging the Judgment in SCB matters and Learned Counsel Vivek Sharma for the Respondents in the Appeals challenging the Judgment in the Canara Bank matters.

5. Interim Application No.577 of 2020 in FEMA Appeal (St) No.992 of 2020, Interim Application No.701 of 2020 in FEMA Appeal (St) No.1117 of 2020, Interim Application No.711 of 2020 in FEMA Appeal (St) No.1126 of 2020, Interim Application No.713 of 2020 in FEMA Appeal (St) No.1128 of 2020, Interim Application No.714 of 2020 in FEMA Appeal (St) No.1129 of 2020, Interim Application No.715 of 2020 in FEMA Appeal (St) No.1130 of 2020, Interim Application No.716 of 2020 in FEMA Appeal (St) No.1131 of

2020, Interim Application No.706 of 2020 in FEMA Appeal (St) No.1122 of 2020, Interim Application No.1441 of 2020 in FEMA Appeal (St) No.1125 of 2020, Interim Application No.712 of 2020 in FEMA Appeal (St) No.1127 of 2020, Interim Application No.707 of 2020 in FEMA Appeal (St) No.1123 of 2020, Interim Application No.704 of 2020 in FEMA Appeal (St) No.1121 of 2020 has been filed for condonation of delay, in challenging the Judgment in SCB matters. The delay in these matters range from 43 to 60 days. As the same is within the time period stipulated under Section 35 of the Foreign Exchange Management Act, 1999, delay stands condoned. All Interim Applications are allowed in terms of its prayer clause.

6. Service is not complete in Interim Application No.700 of 2020 and FEMA Appeal (St) No.1115 of 2020, Interim Application No.702 of 2020 and FEMA Appeal (St) No.1119 of 2020, Interim Application No.709 of 2020 and FEMA Appeal (St) No.1124 of 2020, Interim Application No.717 of 2020 and FEMA Appeal (St) No. 1132 of 2020 and Interim Application No.718 of 2020 and FEMA Appeal (St) No.1133 of 2020. The Appellant was directed to complete service by orders dated 10.06.2022, 04.01.2023 and 01.02.2023. Since service is not completed in these Interim Applications and Appeals due to non-availability of the Respondents at their last known addresses, Mr. Chavan, for the Appellant states that he has instructions not to press for reliefs

relief against the Respondents in these Interim Applications and Appeals. These Interim Applications and Appeals thus stand disposed off as withdrawn.

7. By consent of the respective counsel appearing for the parties, we issue 'Rule'. Rule is made returnable forthwith. Appeals pending are taken up for hearing.

8. The Appellate Tribunal in the Judgment in SCB matters has held as under:

"300. During the hearing of the said appeals, counsel have taken the instructions and had submitted and also filed a letter on behalf of bank stating that in the event that the above-mentioned Appeals of the Appellant Bank and its Officers being Appeal Nos. 91-97 of 2007, 105-110 of 2007, 112-114 of 2007 and 121-122 of 2007 are allowed and the above-mentioned Adjudication Orders are set aside and the Appellant Bank and its Officers are exonerated as a consequence of which the above-mentioned deposited penalty amounts become refundable to the Appellants, the Appellants will not apply for a refund of the said penalty amounts. The statement was made without prejudice to the rights and contentions of the Appellants, but it should not be considered as admission of any violation of any provision of FERA by the Appellants.

301. There is no disputes that contravention in the above said case have happened. From the entire gamut of the case, no material is found to establish that the banks and its official are involved in any conspiracy directly or indirectly, intentionally or deliberately for the said lapse. No doubt it is serious matter and it should not have happened. It did happen 1991 when communication and technology was not so equipped. Even staff or banks officials may not be experts at that point of time. From the conduct of the bank and pleading of all the appellants, it appears that they are feeling their mistakes.

302. *In nutshell, the case of the appellants are that being a bank it was only for RBI to impose the penalty if any thought alternative submissions are also made. The money in question has also brought back by the bank before issuance of show cause noticed. Country has not lost any revenue. After 1991 the bank has conducted thousand of transactions without any default. RBI has not cancelled its licence of the appellant for foreign exchange.*

303. *It is matter of fact that entire penalty amount has been deposited by the Bank. It appears that after realising the lapse on their part, in order to show their bona-fide, the statement was made during the hearings of the appeals that without prejudice, the said penalty amount shall not be pressed by the appellants for refund. The same may be deposited with the Prime Minister Relief Fund, if so advised by the Respondent.*

304. *As far as merits off the appeals are concerned, the impugned orders are not sustainable in law and facts. The same are set aside."*

9. Mr. Desai, states that the Respondent in the Appeals challenging the Judgment in SCB matters, do not seek any refund of the amounts deposited with the Appellant.

10. In so far as the Appeals challenging the Judgment in Canara Bank matters are concerned, we understand that the Appellate Tribunal was persuaded to pass a favourable judgment on the strength of the Judgment in SCB matters.

11. The Respondent in the Appeals challenging the Judgment in the Canara Bank matters have also deposited the penalty amount of INR 62,00,000/- (Indian Rupees Sixty Two Lakhs only) with the Appellant.

012. Mr. Sharma appearing on behalf of Canara Bank states that these Respondents are unable to make a statement before this Hon'ble Court that they will not seek refund of the amount INR 62,00,000/- (Indian Rupees Sixty Two Lakhs only) deposited by them with the Appellant considering they are a nationalised Bank.

13. This Bench enquired with Mr. Desai whether his clients are ready and willing to deposit the amount INR 62,00,000/- (Indian Rupees Sixty Two Lakh only) with the Appellant in the Canara Bank matters, so that a quietus can be given to these thirty (30) Appeals pending in respect of transactions of 1991. The amount deposited would be without prejudice to the rights and contentions and without admission of any liability on the part of the persons depositing the same and without it constituting a precedent. We attempted to persuade Mr. Desai to accept this suggestion which would facilitate putting a quietus to this litigation which is ongoing since the last three (3) decades.

14. Mr. Desai, on taking instructions, informed this Court that the Respondent or Australia and New Zealand Banking Group Limited, through themselves or their Advocates Jadeja & Satiya, are ready and willing to deposit the amount INR 62,00,000/- (Indian Rupees Sixty Two Lakhs only) Appellant.

This deposit is subject to the Appellants not pressing and withdrawing all the balance twenty four (24) Appeals and would be made without prejudice to their rights and contentions and admission of any liability.

15. Mr. Chavan appearing on behalf of the Appellant states that he has taken instructions on the above. He states that the Appellant has accepted the modalities as contained above and he has instructions not to press for hearing of, and to seek the withdrawal of twenty four (24) Appeals and the same be disposed off as such. Mr. Sharma appearing on behalf of the Respondents in the Appeals challenging the judgment in Canara Bank matters on instructions has also given his client's consent.

16. Accordingly, in view of the statement of Mr. Chavan on instructions stating that he is not pressing the Appeals challenging the Judgment in SCB matters and Appeals challenging the Judgment in Canara Bank matters and that he seeks to withdraw the same, we pass the following orders:

- a) FEMA Appeal (St) No.992 of 2020, FEMA Appeal (St) No.1117 of 2020, FEMA Appeal (St) No. 1126 of 2020, FEMA Appeal (St) No.1128 of

2020, FEMA Appeal (St) No.1129 of 2020, FEMA Appeal (St) No.1130 of 2020, FEMA Appeal (St) No.1131 of 2020, FEMA Appeal (St) No.1122 of 2020, FEMA Appeal (St) No.1125 of 2020, FEMA Appeal (St) No.1127 of 2020, FEMA Appeal (St) No.1123 of 2020, FEMA Appeal (St) No.1121 of 2020 are disposed off as withdrawn. It is ordered that the amounts of INR 7,25,07,000/- (Indian Rupees Seven Crore Twenty-Five Lakh Seven Thousand only) deposited by the Respondents shall not be refunded back;

(b) FEMA Appeal No.4 of 2023, FEMA Appeal No.5 of 2023, FEMA Appeal No.1 of 2024, FEMA Appeal No.2 of 2024, FEMA Appeal No.3 of 2024, FEMA Appeal No.4 of 2024, FEMA Appeal No.5 of 2024, FEMA Appeal No.6 of 2024, FEMA Appeal No.7 of 2024, FEMA Appeal No.8 of 2024, FEMA Appeal No.9 of 2024 and FEMA Appeal No.10 of 2024 are disposed off as withdrawn. It is further ordered that Respondents in Appeals challenging the Judgment in SCB matters or Australia and New Zealand Banking Group Limited through themselves or their Advocates Jadeja & Satiya, are directed to deposit an amount of INR 62,00,000/- (Indian Rupees Sixty Two Lakhs only) within a period of four (4) weeks with the Appellant. This amount is not liable to be refunded back. Canara Bank and its officers are at liberty to apply to the Appellant for

refund of the sum of INR 62,00,000/- (Indian Rupees Sixty Two Lakhs only) deposited by them and the Appellant shall refund the same to Canara Bank within a period of 3 months from the date of receiving the aforesaid Application for refund from Canara Bank.

(c) This amount of INR 62,00,000/- (Indian Rupees Sixty Two Lakhs only) is being deposited in terms of the order passed by this Court by the Respondents in Appeals challenging the Judgment in the SCB matters and/or Australia and New Zealand Banking Group Limited though themselves or their Advocates Jadeja & Satiya, and without prejudice to their rights and contentions and without admission of any liability of any nature whatsoever.

(d) We make it clear that the present Order shall not be treated as a precedent.

17. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]

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MAY 2, 2025

Mansi shelke