IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1726 OF 2025
IN
FEMA APPEAL (ST) NO.4112 OF 2025
WITH
INTERIM APPLICATION NO.1727 OF 2025
IN
FEMA APPEAL (ST) NO. 4112 OF 2025

Bank of Baroda .. Applicant/Appellant

Versus

Union of India, through
Enforcement Director .. Respondent

WITH
INTERIM APPLICATION NO. 1831 OF 2025
IN
FEMA APPEAL (ST) NO. 5062 OF 2025
WITH
INTERIM APPLICATION NO. 1832 OF 2025
IN
FEMA APPEAL (ST) NO.5062 OF 2025

Doha Bank Q. P. S. C. ..Applicant

Versus

Union of India, through
Enforcement Director .. Respondent

WITH
FEMA APPEAL NO.3 OF 2025
WITH
INTERIM APPLICATION NO.7511 OF 2025
IN
FEMA APPEAL NO3 OF 2025

Industrial Development Bank
of India (IDBI) Ltd ..Appellant/Applicant

Versus

Union of India, through
Enforcement Director .. Respondent

Mr. Rajeev Kumar Panday, *with Mr. Madhur Rai, Durgesh Telang i/b PRS, Advocates for the Applicant/Appellant.*

Ms. Neha Bhide, *Advocates for the Respondent/ED.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: MAY 7, 2025

P. C.

1. Interim Application No.1726 of 2025 is filed by Bank of Baroda seeking a condonation of delay in preferring the Appeal under Section 35 of the Foreign Exchange Management Act, 1999 (for short ***"FEMA 1999"***).

2. Interim Application No.1831 of 2023 is filed by Doha Bank Q.P.S.C. seeking a condonation of delay in filing the above Appeal under Section 35 of the FEMA 1999.

3. Section 35 of the FEMA 1999 stipulates that any person aggrieved by any decision or order of the Appellate Tribunal may file an

appeal with the High Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law arising out of such order. The proviso to Section 35 stipulates that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

4. For the sake of convenience, Section 35 of the FEMA 1999 is reproduced as under:-

> *"35. **Appeal to High Court.-** Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within sixty days <u>from the date of communication of the decision or order of the Appellate Tribunal</u> to him on any question of law arising out of such order:*
>
> *Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.*
>
> *Explanation. - In this section "High Court" means-*
>
> *(a) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and*
>
> *(b) where the Central Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents, ordinarily resides or carries on business or personally works for gain".*

5. From the language of Section 35, it is clear that the High Court has no power to condone the delay beyond the total period of 120 days. This, in fact, has been so held by this Court in the case of ***Assistant Director, Directorate of Enforcement v/s Branch Manager, the Goa State Co-op Bank Ltd (2025 SCC Online Bom 77) and in the case of Municipal Corporation of Greater Mumbai v/s Anusaya Sitaram Devrukhkar & Ors (2025 SCC Online Bom 36)*** interpreting the provisions of Section 42 of the Prevention of Money Laundering Act, 2002 and Section 74 (1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Section 42 of the Prevention of Money Laundering Act, 2002 and Section 74 (1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 are almost identical to Section 35 of FEMA 1999.

6. As can be seen from Section 35 of the FEMA 1999, the limitation starts to run from the date of communication of the decision or order of the Appellate Tribunal. In the facts of the present case, it is the argument of the Appellants that the impugned order of the Appellate Tribunal was never communicated to them. Bank of Baroda (the Appellant in FEMA APPEAL (ST) No. 4112 of 2025) and Doha Bank Q. P. S. C. (the Appellant in FEMA

APPEAL (ST) No.5062 of 2025) became aware of this order only when they checked the website of the Appellate Tribunal wherein the impugned order dated 24th September 2024 was uploaded.

7. As far as IDBI is concerned (the Appellant in FEMA APPEAL No. 3 of 2025), it is their case that the above order was never communicated to it and it became aware of the order only on 10th February 2025, when a Demand Notice dated 24th January 2025 was received by it. Since the Appeal preferred by IDBI is filed on 18th March 2025, it is within the period 60 days as stipulated in Section 35, and therefore, no application for condonation of delay is filed by IDBI.

8. When the Appeals of Bank of Baroda and Doha Bank Q.P.S.C. had come up on 27th February 2025, the learned Special P.P appearing for the Enforcement Directorate was unable to definitively inform the Court whether the impugned order dated 24th September 2024 was communicated to the Appellants, and if so on what date. To take necessary instructions, the matter was adjourned from time to time.

9. Now, the Registrar of the Appellate Tribunal has filed a report before this Court on 7th April 2025. From this report, it is clear that the

impugned order passed in the Appeals filed by Bank of Baroda and Doha Bank Q. P. S. C. (before the Appellate Tribunal) was never communicated to them.

10. Considering these facts and circumstances, we find that all these Appeals have been filed within the total period of 120 days as stipulated under Section 35 of the FEMA 1999. Accordingly, Interim Application No.1726 of 2025 is allowed in terms of prayer clause (A) which reads thus:

> *"A. This Hon'ble Court be pleased to condone the delay on 44 days in filing the Appeal to challenge the impugned order dated 24/9/2024 passed by the Appellate Tribunal in Appeal No.FPA-FE-562/MUM/2003 filed by erstwhile Vijaya Bank."*

11. Interim Application No.1831 of 2025 is allowed in terms of prayer clause (a) which reads thus:-

> *A. This Hon'ble Court be pleased to condone the delay on 52 days in filing the Appeal to challenge the impugned order dated 24/9/2024 passed by the Appellate Tribunal in Appeal No.Appeal No.FPA-FE-593/MUM/2003 filed by erstwhile HSBC Bank Oman S. A. O.G."*

12. As far as IDBI is concerned, in light of what is stated hereinabove, there is in fact no delay in filing the above Appeal. Hence, the Applicant has not filed any application seeking the condonation of delay.

13. Interim Application No.1726 of 2025 and Interim Application No.1831 of 2025 are disposed of in the aforesaid terms. However, there shall be no order as to costs.

14. 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.]**