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C.M.A.No.1784 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR  
AND  
THE HONOURABLE MR.JUSTICE P. DHANABAL

C.M.A.No.1784 of 2025

S.Rajendran

.. Appellant

Vs.

1. The Special Director cum Adjudicating Authority  
The Directorate of Enforcement  
Southern Regional Office, III Floor  
III Block, B Wing, 26, Haddows Road  
Chennai – 600 006.

2. The Enforcement Officer  
The Directorate of Enforcement  
Southern Regional Office, "Shastri Bhavan"  
III Floor, III Block, B Wing  
26, Chennai – 600 006.

.. Respondents

Prayer: Appeal filed under Section 35 of the Foreign Exchange Management Act, to answer the "substantial question of law" in favour of the appellant and allow the appeal filed by the appellant against the Order No.NIL dated 12.12.2024 passed by the Appellate Tribunal under SAFEMA in MP-FE-55/CHN/2024 (COD) in FPA-FE-19/CHN/2024.

For the Appellant : Mr.R.Swarnavel

For the Respondents : Mr.Rajnish Pathiyil  
Special Public Prosecutor



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ORDER

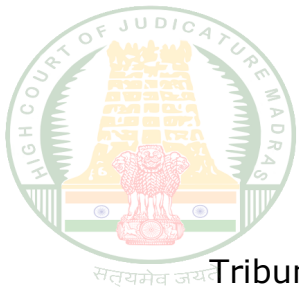
(Order of the Court was made by R.SURESH KUMAR, J.)

This appeal has been preferred against the order passed by the Appellate Tribunal under SAFEMA at New Delhi in MP-FE-55/CHN/2024 dated 12.12.2024.

2. The short facts are as follows:

(i) The respondent Department passed an adjudication order on 31.01.2023. As against the said order, the appellant filed a writ petition before this Court in W.P.No.18626 of 2023, seeking to quash the said order dated 31.01.2023.

(ii) The writ petition was disposed of at the admission stage after hearing both sides, whereby, the Writ Court was of the view that, since the appellant writ petitioner did not exhaust the effective alternate remedy before the Appellate Tribunal under Section 19 of the FEMA, can very well file an appeal. Therefore, without exhausting the alternate remedy, since the writ petition was filed, the learned Judge was not inclined to interfere with the order impugned before the Writ Court and therefore, decided to dismiss the writ petition, however, by giving the liberty to the writ petitioner/appellant to file appropriate appeal before the Appellate



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Tribunal within a period of four weeks from the date of receipt of a copy of the order and further directions were given that upon filing of such appeal, the Appellate Tribunal shall consider the same on merits and pass appropriate orders within a period of eight weeks thereafter, after affording an opportunity of personal hearing to the writ petitioner/appellant and aggrieved persons, if any.

(iii) It was further directed that if there is any delay in filing, the same shall stand excluded for the purpose of computation of limitation.

(iv) After the said order was passed by the Writ Court on 26.06.2023, after getting the Certified Copy of the order, which was served upon the writ petitioner/appellant on 06.10.2023, it was the claim of the writ petitioner/appellant that the appeal was filed on 19.10.2023 before the Appellate Tribunal. However, the said appeal was dismissed, as it has been filed belatedly, by the Tribunal vide the impugned order dated 12.12.2024.

3. Heard *Mr.R.Swarnavel*, learned counsel for the writ petitioner/appellant and *Mr.Rajnish Pathiyil*, learned Special Public Prosecutor for the respondents.



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4. The Appellate Tribunal, in the impugned order, in fact, has stated that the appeal was not filed as claimed by the appellant on 19.10.2023, instead, it was filed only on 19.01.2024. Therefore, it was not within the time as stipulated by the High Court in the Writ order. Therefore, there has been a delay, hence, the application was to be dismissed without condoning the delay.

5. In this context, by relying upon the counter affidavit filed by the respondents, *Mr.Rajnish Pathiyil*, the learned Special Public Prosecutor for the respondents would submit that even though a copy of the Demand Draft for paying the Court Fee before the Tribunal is dated 11.10.2023 and the photocopies of the appeal filed by the writ petitioner/appellant shows that the same is dated 19.10.2023, whether the same has been filed on 19.10.2023 has to be proved strictly by the writ petitioner/appellant and inasmuch as the same has not been proved to the satisfaction of the Appellate Tribunal, what has been held by the Tribunal in the impugned order is to be accepted. Therefore, the Tribunal has rightly rejected the appeal, as well as the condone delay petition, because of the delay which has not been explained properly and also the delay is beyond the time which has been fixed by the Writ Court, giving liberty to



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the writ petitioner/appellant to file an appeal and therefore, the impugned order, passed by the Appellate Tribunal, is to be sustained, he contended.

6.1. On the other hand, *Mr.R.Swarnavel*, learned counsel appearing for the writ petitioner/appellant would submit that within four weeks' time, as stipulated by the Writ Court, every effort has been taken by taking a Demand Draft for the Court Fee to be paid before the Appellate Tribunal as early as on 11.10.2023 and the same was filed at the Registry of the Tribunal on 19.10.2023. However, the same was not accepted and returned to the counsel at New Delhi by the Tribunal's Office for the reason that the Court Fee is to be paid only through online and not by way of a Demand Draft, thereafter, there had been some delay in communication and to pay the Court Fee online.

6.2. Therefore, thereafter, there might be some delay in complying the said requirement of making the Court Fee to the Appellate Tribunal through online. Therefore, such genuine reason has to be accepted, he contended.



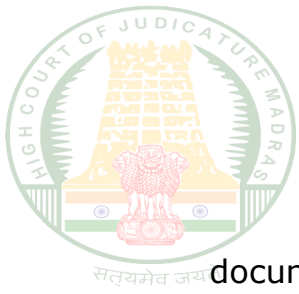
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7. We have considered the said submissions made by learned counsel appearing for both sides.

8. The impugned order, as has been made by the Appellate Tribunal, if accepted by this Court, the very valuable right of the appellant to agitate the main issue on merits would be completely shattered. More over, in order to give such an opportunity to prefer an appeal, such liberty was given by the High Court in W.P.No.18626 of 2023 by the order dated 26.03.2023, whereby, not only liberty was given to the appellant to file an appeal within four weeks' time, but also further directions have been given to the Appellate Tribunal to decide the case on merits and to pass appropriate orders.

9. It is further to be noted that genuinely, a Demand Draft has been taken towards the Tribunal's Court Fee as early as on 11.10.2023. Therefore, having taken the Demand Draft for Court Fee and prepared the appeal petition dated 19.10.2023, one need not withhold the appeal without being filed immediately before the Appellate Tribunal. Therefore, to that extent, the version made by the learned counsel appearing for the appellant in view of these



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documents, that is Demand Draft dated 11.10.2023 and appeal petition dated 19.10.2023, can be taken into account and merely because some delay is caused in making the Court Fee before the Appellate Tribunal through online, the valuable right of the appellant to agitate before the Tribunal cannot be defeated, is our view.

10. In that view of the matter, this Court is inclined to accept this appeal, however, since it is a second round of litigation before this Court, at the instance of the appellant, cost is awarded to pay the High Court Legal Services Committee, which we quantify a sum of Rs.5,000/-, which shall be paid by the appellant within a period of one week from the date of receipt of a copy of this order.

11. Resultantly, the impugned order passed by the Appellate Tribunal dated 12.12.2024 is set aside and as a sequel, it is now the duty of the appellant to file the appeal papers promptly without any defects immediately within a period of two weeks from the date of receipt of a copy of this order at the Appellate Tribunal at New Delhi and on such appeal being filed, the same shall be entertained and be decided on merits and in accordance with law.



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12. With these directions, the appeal is ordered accordingly.

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Consequently, C.M.P.No.15707 of 2025 is closed.

(R.S.K., J.) (P.D.B., J)  
07.08.2025

Speaking Order/Non-Speaking Order

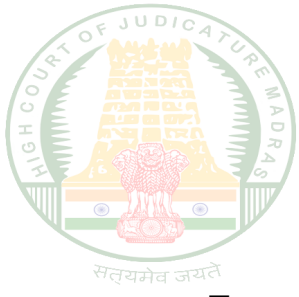
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Internet:Yes/No

Neutral Citation:Yes/No

Note: Issue order copy on 08.08.2025.

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To:

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The Directorate of Enforcement  
Southern Regional Office, III Floor  
III Block, B Wing, 26, Haddows Road  
Chennai – 600 006.
2. The Enforcement Officer  
The Directorate of Enforcement  
Southern Regional Office, “Shastri Bhavan”  
III Floor, III Block, B Wing  
26, Chennai – 600 006.
3. The Member Secretary  
Tamil Nadu State Legal Services Committee  
North Fort Road, High Court Buildings  
Chennai - 600 104.



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AND  
P. DHANABAL, J.  
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