

MSS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 7932 of 2008

MAFATLAL FINANCE CO. LTD. .. PETITIONERS

Vs.

UNION OF INDIA & ORS. .. RESPONDENTS

Mr. Prakash Shah i/b PDS Legal for petitioners

Mr. R. Ashokan for R-1 to 4

Mr. Hidayat Mukadam for R-5

CORAM: SMT. RANJANA DESAI &
J. P. DEVADHAR, JJ.

DATE : 27/2/2009

P.C.

. Rule. Returnable forthwith.

2. By order dated 30/6/03 Assistant Director, Enforcement Directorate imposed penalty of Rs.28,40,000/- on the petitioners on the ground inter alia that the petitioners were given number of opportunities to submit evidence of utilization of the remitted foreign exchange but they failed to submit any evidence. The petitioners carried an appeal from the said order being Appeal No. 239 of

2004 and made an application for dispensation of predeposit. That application was rejected on 15/10/07. On 21/1/08 conditional order was passed and the petitioners were directed to deposit 50% of the penalty within 7 days failing which the appeal was to be dismissed. The petitioners failed to comply with the said order. By order dated 18/2/08, the Tribunal dismissed the appeal for not depositing the predeposit amount. Being aggrieved by this order the petitioners have filed this appeal.

3. We have heard learned counsel for the petitioners. He submitted that though the petitioners could not produce the relevant documents before the Assistant Director, they have now traced those documents. Those documents are annexed to the petition at Exhibit-A-1 to A-3 and B. Learned counsel submitted that, therefore, the impugned orders may be set aside and the petitioners may be given an opportunity to submit the said documents before the Assistant Director, Enforcement Directorate.

4. Since according to the petitioners they have now been able to trace the documents, we are of the

opinion that the petitioners must be given a chance to submit them before the Assistant Director, Enforcement Directorate in the interest of justice. Hence we set aside the impugned orders dated 30/6/03, 15/10/07, 21/1/08 and 18/2/08 and remand the matter for denovo consideration. The petitioners will be at liberty to produce the documents which are now in their possession. The Assistant Director shall then consider the matter afresh independently and in accordance with law. We make it clear that, we have not expressed any opinion on the merits of the case. Writ Petition is disposed of in the aforestated terms.

JUDGE

JUDGE