

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).12635/2005

(From the judgement and order dated 04/05/2005 in WP No. 1235/2005 of
The HIGH COURT OF BOMBAY)

M/S. SEWA MEDICALS LTD.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With prayer for interim relief)

Date: 22/07/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner(s)

Mr. R.N.Sahay, Sr. Adv.

Mr. Ravi Mehrotra, Adv.

Mr. R.K.Sinha, Adv.

Mr. Dharmendra Kumar Sinha, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the petitioner.

The Appellate Tribunal for Foreign Exchange directed payment of 10% of

the demand raised for violation of the provisions of Foreign Exchange Regulation Act,

1973 (in short FERA) read with certain provisions of Act, 1999 (in short FEMA). The

penalty levied on the petitioner is Rs. 1,69,34,684/- (rupees One Crore, sixty nine lakhs,

thirty four thousand and six hundred eighty four only). The High Court found that

the quantum directed to be deposit is very reasonable and therefore did not interfere.

Learned counsel for the petitioner states that the petitioner has become a

sick company and the matter is pending before the Board for Industrial and Financial

Reconstruction (BIFE). It appears that the alleged violations took place as back as in

1996. The question whether the penalty is sustainable has to be gone into the Appellate

Tribunal in detail for being entitled to an order of dispensation of deposit. The

applicant has to show the existence of prima-facie good case, balance of convenience

and irreparable loss. The conditions are cumulative. These aspects do not appear to

have been prima-facie established as noticed by the Appellate Tribunal. We, therefore,

decline to interfere in the matter. However, the time for deposit is extended for two

months,

The special leave petition is disposed of accordingly.

(Shashi Sareen)

Court Master

(Vijay Aggarwal)

Court Master

