

1. Delay condoned.

2. Leave Granted

3. The appellants are aggrieved by the order passed by Allahabad High Court staying the investigation initiated by the Directorate of Enforcement under Foreign Exchange Management Act [for short 'FEMA']. The aforesaid order was passed by the High Court in Writ Petition filed on 8th of June, 2010, which happened to be a day within the summer vacation of the High Court. The Writ Petition was listed on June 9, 2010 before the Vacation Bench.

4. In the synopsis and list of dates filed with the appeal, it has been stated by the appellants that on June 9, 2010 the matter was mentioned and got listed by the respondents. The Central Government counsel appearing for the appellant sought for time to enable him to obtain instructions but it appears that the court declined the request and proceeded to hear the matter and issued notice in the Writ Petition and while doing so stayed the investigation initiated by the appellant against the respondents.

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5. It is contended by the counsel appearing for the appellants before us that the investigation initiated could have been completed if six months' time was given to the appellants for completing the investigation but instead on the very first day, the court proceeded to stay the investigation, thereby virtually allowing the Writ Petition on the very first day itself.

6. The learned counsel appearing for the respondents on the other hand has submitted that the Directorate of Enforcement proposed to summon the respondents so as to extract confessions from them and therefore the Writ Petition was filed where the impugned order was correctly passed.

7. We are, at this stage, not concerned with the allegations and counter allegations made by the parties as the Writ Petition is pending for consideration and disposal in the High Court. The same is required to be considered and disposed of by the High Court in accordance with law. But, we cannot appreciate the manner in which the Writ Petition was taken up and an interim order was passed by the vacation court and thereby practically allowing the Writ Petition on the very first day. Some time and opportunity should have been granted to the appellants herein and thereafter the court could have proceeded with to hear the matter.

8. Be that as it may, in the facts and circumstances of this case we set aside the impugned judgment and order without, however, expressing any opinion on the merits of the dispute between the parties. We send back and remit the matter to the High Court for fresh consideration of the Writ Petition in accordance with law and without, in any manner, being influenced by the present order passed by us. The parties shall be at liberty to raise all issues before the High Court when the matter is taken up by the High Court. We request the

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Chief Justice of the High Court to take up the matter in his Board or if the same is not possible for any reason, then the Writ Petition be listed before an appropriate bench for disposal.

9. Let the Writ Petition be disposed of as expeditiously as possible preferably within six weeks from the date of receipt of the orders from this Court. Counter affidavit, if any, shall be filed by the appellant within two weeks from today and the rejoinder, if any, shall be filed within a week thereafter.

10. In terms of the aforesaid order, the appeal is disposed of by setting aside the impugned order and by issuing directions for fresh disposal in accordance with the directions contained herein.

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[DR. MUKUNDAKAM SHARMA]

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[ANIL R. DAVE]

NEW DELHI
FEBRUARY 21, 2011