

**SMUGGLERS AND FOREIGN EXCHANGE MANIPULATORS  
(APPELLATE TRIBUNAL FOR FORFEITED PROPERTY) RULES,  
1977**

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**SMUGGLERS AND FOREIGN EXCHANGE MANIPULATORS  
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In exercise of the powers conferred by sub-section (7) of section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976(13 of 1976), the Appellate Tribunal for Forfeited Property hereby makes the following rules, namely:-

**1. Short title and commencement :-**

( 1 ) These rules may be called the Smugglers and Foreign Exchange Manipulators (Appellate Tribunal for Forfeited Property) Rules, 1977.

(2) They shall come into force on the date of their publication in the Official Gazette.

## **2. Definitions :-**

In these rules, unless the context otherwise requires,-

(i) "Act" means the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976);

(ii) "appeal" means a memorandum of appeal to the Tribunal filed under sub-section (4) of section 12;

(iii) "appellant" means a person who, being aggrieved by an order made by the competent authority, prefers an appeal to the Tribunal, and includes the authorised representative of the appellant;

( iv) "authorised representative" means,-

(a) in relation to an appellant, any person being a relative of, or a person who is, or was, regularly employed by the appellant and authorised by the appellant in writing to attend before the Tribunal; or

(b) a legal practitioner entitled to practise in any civil court in India, who is authorised by the appellant; or

(c) an accountant, being an Associate or Fellow Member of the Institute of Chartered Accountants of India or the Institute of Cost and Works Accountants of India, who is authorised by the appellant; or

(d) in relation to a competent authority who is a party to any proceeding before the Tribunal, a standing counsel to the Government or a person duly appointed by the Government by notification in the Official Gazette as the authorised representative or any other person acting on behalf of the person so appointed;

( v) "Bench" means Bench of the Tribunal constituted under sub-section (6) <sup>1</sup> [or (6A)] of section 12;

(vi) "Chairman" means the Chairman of the Tribunal;

(vii) "legal representative" means a person who in law represents the estate of a deceased person, and includes any person or persons treated by the Tribunal as representing the deceased person in the proceedings pending before the Tribunal, unless a

competent court holds otherwise and its order is brought to the notice of the Tribunal;

(viii) "member" means a member of the Tribunal;

(ix) "party" in relation to an appeal, means an appellant or the respondent and the expression "parties" shall be construed to mean the appellant and the respondent as the context may require;

(x) "Registrar" means such Administrative Officer of the Tribunal as the Tribunal may appoint for discharging the functions of its Registrar;

(xi) "section" means a section of the Act;

(xii) "Tribunal" means the Appellate Tribunal for Forfeited Property, constituted by the Central Government under sub-section (1) of section 12.

1. Inserted by the Smugglers and Foreign Exchange Manipulators (Appellate Tribunal for Forfeited Property) Amendment Rules, 1982, w.e.f. 7-7-1982.

### **3. Language of the Tribunal :-**

(1) All pleadings before the Tribunal may, at the option of the appellant, be in English or in Hindi.

(2) All orders and other proceedings of the Tribunal may, at the option of the Tribunal, be in English or in Hindi.

### **4. Headquarters of the Tribunal, etc :-**

(1) The headquarters of the Tribunal shall be at New Delhi.

(2) All appeals and petitions shall ordinarily be heard at the headquarters but may, at the discretion of the Chairman, be heard at Bombay, Madras, Calcutta or any other place in the public interest.

(3) The office of the Tribunal shall observe such public and other holidays as are observed by the offices of the Central Government.

### **5. Procedure for filing appeals and petitions :-**

(1) Any person aggrieved by an order of the competent authority <sup>1</sup> [under section 7 or sub-section (1) of section 9 or section 10 of the Act] may prefer an appeal to the Tribunal.

(2) A memorandum of appeal shall be in Form A annexed hereto and shall be in English or in Hindi and shall set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative, and such grounds shall be numbered consecutively.

(3)

(a) Every memorandum of appeal shall be presented by the appellant in person or by his authorised representative to the Registrar at the office of the Tribunal or to an officer authorised in this behalf by the Chairman (hereinafter referred to as the authorised officer) or shall be sent by registered post, acknowledgement due, addressed to the Registrar or to such authorised officer:

[appeal] is presented by one of the appellants or by the authorised representative of all the appellants.

(b) Where the memorandum of appeal is sent by registered post, the date of receipt of the memorandum of appeal at the office of the Tribunal alone shall be considered as the date of filing of the appeal.

(c) The Registrar or the authorised officer shall endorse on every memorandum of appeal the date on which it is presented or received at the office of the Tribunal and shall sign the endorsement.

(4) Every memorandum of appeal shall be in quadruplicate and shall be accompanied by four copies of the order appealed against (one of the copies shall be a certified copy).

(5) In every appeal, the competent authority shall be impleaded as one of the respondents.

(6) Any petition presented under these rules shall be in quadruplicate and shall be accompanied by an affidavit as also such documents as are relied upon in the memorandum of appeal.

1. Inserted by the Smugglers and Foreign Exchange Manipulators (Appellate Tribunal for Forfeited Property) Amendment Rules, 1979, w.e.f. 13-1-1979, as corrected by Notification No. SO 433(E), dated 18-6-1980.

## **6. Procedure for registration or rejection of appeal :-**

(1) Every memorandum of appeal, filed within forty-five days of service of the order of the competent authority, being in Form A

annexed hereto and otherwise in order, shall be registered and numbered by the Registrar who shall intimate the appellant or his authorised representative accordingly.

(2)

(a) The Registrar may return a memorandum of appeal filed within a period of forty- five days, if it is not in the prescribed form or not otherwise in order, for its being amended within such period, before the expiry of the said period of forty-five days as he may specify, or within such further period as may be extended by him (not being a period beyond the said period of forty-five days).

(b)Where the memorandum of appeal is filed after amendment, within the period of forty-five days, the Registrar shall be competent to register the appeal under sub-rule (1).

(3)

(a) Where the memorandum of appeal, returned under sub-rule (2), is re-filed after the expiry of the period of forty-five days referred to in sub-rule (1), it shall be accompanied by a petition for condonation of delay and also an affidavit explaining the reasons for the delay. Thereafter, it shall be posted for hearing before the Tribunal for 2, Substituted for "application" by the Smugglers and Foreign Exchange Manipulators (Appellate Tribunal for Forfeited Property) Amendment Rules, 1979, w.e.f. 13-1-1979, as corrected by Notification No. SO 433(E), dated 18-6-1980. determination of the question as to whether the appeal should be entertained and the order of the Tribunal in this regard shall be final.

(b)Where the appeal is allowed to be entertained, the Registrar shall follow the procedure specified in sub-rule (1) in respect of its registration.

(4)

(a) Where a memorandum of appeal is filed beyond the period of forty-five days but within a period of sixty days from the date of service of the order of the competent authority, it shall not be accepted unless it is accompanied by a petition for condonation of delay and also an affidavit explaining the reasons for the delay.

(b)The petition for condonation of delay shall be posted for hearing before the Tribunal in the same manner in which an appeal is posted for hearing, and the order of the Tribunal in this regard shall

be final.

(c) Where the petition for condonation of delay is allowed, the Registrar shall follow the procedure specified in sub-rule (1) or sub-rule (2), as the case may be, in respect of the registration of the memorandum of appeal.

(5) Where-

(a) A memorandum of appeal is filed beyond the period of forty-five days but within a period of sixty days and is not accompanied by a petition for condonation of delay and also an affidavit explaining the reasons for the delay, or

(b) a memorandum of appeal is filed after the expiry of sixty days from the date of service of the order of the competent authority, the Registrar shall in either case place the case before the Chairman for orders and the Chairman shall,-

(i) in a case falling under clause (a), direct the matter to be posted for hearing before the Tribunal after giving notice to the parties; and

(ii) in a case falling under clause (b), direct the appeal to be posted before the Tribunal for being rejected as time-barred.

(6) Where a memorandum of appeal referred to in clause (a) of sub-rule (5) is allowed to be entertained, the Registrar shall follow the procedure specified in sub-rule (1) or sub-rule (2) in respect of its registration.

## **7. Procedure after registration of appeal :-**

[(1) After an appeal is registered, one copy of the memorandum of appeal and annexures thereto shall be served as soon as possible on the competent authority either by registered post, acknowledgement due, or by delivering or tendering them to the said authority through messenger.

(2) The parties shall be informed of the date and place of hearing of the appeal either by registered post, acknowledgement due, or by notice served on them through messenger: Provided that where the parties are present before the Tribunal, it may inform them the date and place of hearing of the appeal.]

(3) Any petition for summoning witnesses or documents, or the like, filed by a party may be heard, if necessary, after giving notice

to the other party.

(4) Every requisition, direction, letter, authorisation, or written notice to be issued by the Tribunal shall be signed by the Registrar or any other officer authorised by the Chairman in this behalf and shall be sent by registered post, acknowledgement due.

### **8. Powers of the Tribunal :-**

The Tribunal shall have all the powers of a civil court as specified in section 15 .

### **9. Joint hearing and disposal of appeals :-**

In a case where two or more appeals are filed against an order or orders of the competent authority, such of the appeals as may be heard and disposed of together may be disposed of by a single order.

### **10. Grounds which may be taken in appeal :-**

The appellant shall not, except with the leave of the Tribunal, urge or be heard in support of any ground not set forth in the memorandum of appeal, but the Tribunal, in deciding the appeal, shall not be confined to the grounds set forth in the memorandum of appeal or taken with the leave of the Tribunal under this rule: Provided that the Tribunal shall not rest its decision on any ground other than the grounds set forth in the memorandum of appeal unless the party which may be affected thereby has had a reasonable opportunity of being heard on that ground.

### **11. Adjournment :-**

The Tribunal may adjourn the hearing of any case to any other date and inform the parties of the next date and place of hearing of the case.

### **12. Dismissal of appeal for appellants default, etc :-**

Where on the day fixed for hearing or on any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the Tribunal may either proceed ex parte or dismiss the appeal for default: Provided that where the appeal has been dismissed for default or proceeded with ex parte and the appellant appears thereafter and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called on for hearing, <sup>1</sup> [the Tribunal shall after giving notice to the respondent, make an order] setting aside the dismissal order or the ex parte proceedings and restoring the appeal to its original

number.

1. Substituted for "the Tribunal shall make an order' by the Smugglers and Foreign Exchange Manipulators (Appellate Tribunal for Forfeited Property) Amendment Rules, 1979, w.e.f. 13-1-1979, as corrected by Notification No. SO 433(E), dated 18-6-1980.

**13. Appeal not to abate on the death of the appellant, etc :-**

An appeal shall not abate on the death of an appellant or on the adjudication of the appellant as an insolvent or, in the case of a company, on its being wound up and the executor, administrator or other legal representative of the appellant may apply to be brought on record as appellants.

**14. Power of remand :-**

(1) Where the competent authority has disposed of any matter upon a preliminary point and the decision of the competent authority is reversed in appeal, the Tribunal may, if it thinks fit, by order, remand the case, and may further direct what issue

(2) Where the competent authority has omitted to frame or try any issue or to determine any question which appears to the Tribunal to be essential to the right decision of the case upon the merits, the Tribunal may, if necessary, keep the appeal pending, frame issues and refer the same for trial to the competent authority, and in such case shall direct the competent authority to take the additional evidence required and thereupon the competent authority shall proceed to decide such issues and shall return the evidence to the Tribunal together with its findings thereon and the reasons therefor.

(3) Such evidence and findings shall form part of the record in the case and either party may, within a period to be fixed by the Tribunal, present a memorandum of objections to any finding.

(4) After the expiry of the period so fixed for presenting any memorandum of objections, the Tribunal shall proceed to hear and dispose of the appeal.

**15. Production of additional evidence before the Tribunal :-**

Save as otherwise provided in these rules, the parties to the appeal shall not be entitled to produce additional evidence, oral or documentary, before the Tribunal: Provided that if the Tribunal- (a) requires any documents to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or

for any other substantial cause, or (b) is satisfied that the competent authority has decided the case without giving reasonable opportunity to the appellant to adduce evidence on points specified by him or not specified by him, the Tribunal may allow such documents to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced or direct the competent authority to record such evidence and submit its report along with the record.

**16. Hearing of appeals :-**

The places in which the Tribunal sits for the purpose of hearing appeals shall be deemed to be an open court, to which the public generally may have access so far as the same can conveniently contain them: Provided that the Tribunal may, if it thinks fit, order at any stage of the hearing of an appeal, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Tribunal.]

**17. Reservation of order :-**

(1) The Tribunal may, after final hearing, reserve its order. Where any order is so reserved, the Tribunal may suo motu or at the instance of the parties for good Substituted by the Smugglers and Foreign Exchange Manipulators (Appellate Tribunal for Forfeited Property) Amendment Rules, 1979, w.e.f. 13-1-1979, as corrected by Notification No. SO 433(E), dated 18-6-1980. and sufficient reasons, furnish in writing, re-post the appeal for hearing before the final order is passed. (2) After final hearing, the Tribunal shall deliver its final order.

**18. Order to be communicated to parties :-**

Every order of the Tribunal shall be in writing and every final order of the Tribunal shall be communicated by the Registrar to the parties as early as possible.

**19. Saving of orders :-**

(1)

(a) Where the decision of the Tribunal is unanimous, a common order shall be signed by all the members of the Tribunal.

(b) Where there is a difference of opinion, the decision shall be in accordance with the decision of the majority of the members of the Tribunal.

(c) The dissenting member may write his own order on the point or points on which he dissents.

(d) The decision of the majority shall be reduced to writing and signed by all the members, including the dissenting member.

(2) Where the appeal or petition is heard by a Bench and one of the members is unavoidably absent, its record shall be placed before the other members, and such members may, after examining the record and mutual discussion, pass final orders on the appeal or petition:

Provided that where there is a difference of opinion among the members, the record shall be placed before the third member for hearing and the decision of the majority shall be reduced to writing and signed by all the members, including the dissenting member.

## **20. Rectification of mistakes :-**

(1) A petition for the rectification of an order of the Tribunal shall lie if there is a mistake apparent from the record.

(2) No petition for rectification of the order of the Tribunal shall be entertained after the expiry of a period of one year from the date of the order.

## **21. Petition for preservation of forfeited property :-**

Any petition filed by an appellant regarding the preservation of forfeited property during the pendency of the appeal may be disposed of with such directions as the Tribunal may think fit.

## **22. Scale of copying fees :-**

<sup>1</sup>[(1) Copying fees for supply of copies shall be rupees two per page or part thereof.

(1A) Copying fees for supply of photostat copies shall, however, be the actual expenses incurred by the Tribunal for such copies.]

(2) A fee of two rupees shall be levied for authenticating a copy to be a true copy.

(3) Copying fees shall be recovered in advance in cash.

(4) Where a party applies for immediate delivery of a copy of evidence taken down by a stenographer, the fee chargeable shall be 2 1/2 times of those prescribed by sub-rule

**2** [(5)When the copy is sent by post the petitioner will also be charged with the actual postal charges which shall be recovered in advance in cash.]

1. Substituted for sub-rule (1) by the Smugglers and Foreign Exchange Manipulators (Appellate Tribunal for Forfeited Property) Amendment Rules, 1985, w.e.f. 11-9-1985.

2. Inserted by the Smugglers and Foreign Exchange Manipulators (Appellate Tribunal for Forfeited Property) Amendment Rules, 1985, w.e.f. 11-9-1985.

**23. Fees for inspection of records :-**

(1)Fees for inspecting records and registers of the Tribunal shall be charged as follows:-

(a) for the first hour or part thereof 1 rupee;

(b) for every additional hour or part thereof 50 paise.

(2) Fees for inspection shall be paid in cash.