



2026:DHC:9365-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 15.10.2026

CNR No. DLHC010727292024

+ **MISC. APPEAL(PMLA) 33/2024**

SUMESH DUGGAL

.....Appellant

Through: **Mr.Harshit Sethi, Ms.Mansi
Tripathi & Mr.Arya Yadav,
Advs.**

versus

SPECIAL DIRECTOR DIRECTORATE OF ENFORCEMENT

.....Respondent

Through: **Mr.Vivek Gurnani, Panel
Counsel for ED with
Mr.Kanishk Maurya &
Mr.Ch.Abhinandan Patra,
Advs.**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE ARUN BHARDWAJ

NAVIN CHAWLA, J. (ORAL)

1. This appeal has been filed under Section 35 of the Foreign Exchange Management Act, 1999 (in short, 'FEMA'), challenging the order dated 08.07.2024 passed by the learned Appellate Tribunal under SAFEMA (hereinafter referred to as 'impugned order'), in appeal bearing No. FPA-FE-46/DLI/2017 titled ***Shri Sumesh Duggal v. The Special Director, Directorate of Enforcement, Delhi***, by



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which the learned Appellate Tribunal was pleased to dismiss the appeal filed by the appellant herein.

2. To give a brief background of the facts on which the present appeal arises, on 30.05.2007, the officers of the respondent/Enforcement Directorate searched the official and residential premises of the appellant, including a company, namely, M/s Duggal Forex Pvt. Ltd., wherein the appellant is one of the Directors. In this search, it is alleged that certain foreign currency and Indian currency worth of Rs. 11,00,000/- (Rupees Eleven Lakhs Only) was recovered, which could not be explained by the appellant or the company M/s Duggal Forex Pvt. Ltd.. Based on the said search and recovery, Show Cause Notices were issued to the appellant and the company. The same resulted in an adjudication order dated 30.03.2017 passed by the Adjudicating Authority, whereby the appellant and the company were visited with penalties of Rs. 5,00,000/- (Rupees Five Lakhs Only) for contravention of Sections 3(1)(a) and 4 of the FEMA and Rs. 15,00,000/- (Rupees Fifteen Lakhs Only) for contravention of Sections 10, 47 read with Section 42 and Section 13(2) of the FEMA, respectively, and the amount recovered in the search was directed to be confiscated.

3. Aggrieved by the said order, the company as well as the appellant herein filed appeals before the learned Tribunal.

4. The learned Tribunal *vide* its Impugned Order, while allowing the appeal filed by the company, dismissed the appeal filed by the appellant herein.



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5. The learned counsel for the appellant submits that the learned Tribunal, in its Impugned Order, has found that the company has been able to explain the foreign currency and the Indian currency seized during the search operation and, therefore, exonerated the company of any violation of the FEMA provisions. At the same time, without giving any reasons and by a cryptic order, the learned Tribunal has dismissed the appeal filed by the appellant herein.

6. On the other hand, the learned counsel for the respondent/Enforcement Directorate submits that their case against the appellant was not only based on the foreign currency and Indian currency recovered during the search operation, but also on the statements, including that of the appellant, recorded under Section 37 of the FEMA, the call records, and other material against the appellant, which showed that he was dealing in foreign currency without the requisite permissions.

7. We have considered the submissions made by the learned counsel for the parties.

8. We shall first quote from the Impugned Order insofar as its finding against the appellant is concerned, as under:

“Now, coming to Sumesh Duggal, the evidence on record clearly reflects that he used to sell US \$ on premium rate to the officials/officers of Nigerian High Commission.”

9. While the learned counsel for the respondent has taken us through the facts of the case as recorded in the Impugned order, and contended that the evidence which is referred to by the learned Tribunal in the Impugned Order while narrating the facts of the case,



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is, in fact, the evidence on record that has weighed with the learned Tribunal in dismissing the appeal of the appellant herein, we do not find the same being reflected in the Impugned Order itself. After giving a brief narration of the facts, the learned Tribunal proceeded to consider the appeal of the company and found that it had been able to explain the foreign currency and Indian currency recovered during the search operation. We quote the finding of the learned Tribunal as under:

“5. After hearing the rival submission, I have given my thoughtful consideration to the same. As far as cash of Rs. 11,00,000/- is concerned, the same is duly explained by the appellants by way of tendering the statement of account of M/s Duggal Forex Pvt Ltd. which shows withdrawal of Rs. 5,00,000/- by way of cheque no. 343741 for sum of Rs. 8,00,000/- by way of cheque no. 343746. The sum of Rs. 11,00,000/- is stated to be out of the said drawn amount of Rs. 13,00,000/-. Accordingly, the said cash of Rs. 11,00,000/- is not an unaccounted money in any manner and is wrongly seized and ordered to be confiscated.

Now, coming to the various foreign currency notes found in the premises of M/s Duggal Forex Pvt Ltd. and not tallying with the record, appellant has stated that the said amount is duly accounted for and produced the record in support of his contention (as referred by him in para no. 3 above), which reflects that there is no contravention on the part of M/s Duggal Forex Pvt Ltd. However, perusal of the impugned order reflects that the Adjudicating Authority has not considered the said record and is silent on this aspect. Therefore, on the basis of record submitted by M/s Duggal Forex Pvt Ltd., the said company has not committed any contravention, as there



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is no irregularity in the account of the said company.”

10. Having found the above in favour of the company, it was incumbent on the learned Tribunal to discuss what further evidence it found against the appellant for upholding the penalty imposed on the appellant. These matters cannot be inferred from the Impugned Order. Reasons for the order must be evident from its reading and cannot be inferred.

11. Accordingly, we find that the dismissal of the appeal filed by the appellant by the Impugned Order is without reasons.

12. We, therefore, set aside the Impugned Order passed by the learned Tribunal and remand the matter back to the learned Tribunal for fresh consideration.

13. The learned Tribunal shall remain uninfluenced by any observation made against the appellant in its Impugned Order and shall adjudicate the appeal of the appellant afresh and give reasons for the same.

14. The parties shall appear before the learned Tribunal for further directions on 10th December, 2026.

15. The appeal is disposed of in the above terms. There shall be no order as to costs.

NAVIN CHAWLA, J

ARUN BHARDWAJ, J

OCTOBER 15, 2026/rv/pb

Signature Not Verified

Digitally Signed
By: REYMON VASHIST
Signing Date: 17.10.2026
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