



2025:DHC:9358



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 27.10.2025*+ **CRL.A. 701/2007, CRL.M.A. 12607/2007, CRL.M.A. 29294/2023 & CRL.M.A. 29293/2023**

ABDUL HAMEED REHMANIAppellant

Through: Mr. RK Handoo, Advocate.

versus

SPECIAL DIRECTOR ENFORCEMENT
DIRECTORATE

.....Respondent

Through: Mr. Vivek Gurnani, Advocate.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J****CRL.M.A. 29294/2023 (condonation of delay)**

1. The applicant, Mohammad Rehmani, by way of the present application, seeks condonation of delay of 3621 days, in filing an application for his impleadment as the legal heir of late Abdul Hameed Rehmani (CRL.M.A. 29293/2023), in order to pursue the above-captioned appeal.

2. The facts and events relevant for deciding the present application are as follows. A Show Cause Notice had been issued by the adjudicating officer, i.e., the Special Director, Directorate of Enforcement, Delhi [hereafter 'DoE'], to the Abdul Kalam Azad



Islamic Awakening Centre [hereafter '*the Centre*'] and its President, Abdul Hameed Rahmani, for alleged contravention of the provisions of Sections 8(1) and 14 of the Foreign Exchange Regulation Act, 1973 [hereafter '*FERA, 1973*'] on 12.06.2001.

3. At this juncture, it is pertinent to note that FERA was repealed by the Foreign Exchange Management Act, 1999 [hereafter '*FEMA, 1999*'], with effect from 01.06.2000. However, Section 49(3) of FEMA, 1999 specifically provided that an adjudicating officer could take cognizance of any contravention under Section 51 of FERA, 1973 within a period of two years from the date of its repeal. Accordingly, in the present case, the Show Cause Notice had been issued in June 2001 for alleged contraventions of FERA, 1973 (since repealed) committed during the period 1993 to 1997.

4. Subsequently, on 08.02.2002, an adjudication order was passed by the Special Director, DoE, imposing a penalty of ₹2 lakhs each on the Centre as well as on Abdul Hameed Rahmani under Section 50 of FERA, 1973, which was duly deposited by them in accordance with law. However, about two years thereafter, the DoE preferred a revision petition under Section 52(4) of FERA, 1973 read with Sections 19(6) and 49(4) of FEMA, 1999 seeking modification of the adjudication order. The said revision petition was disposed of *vide* order dated 24.07.2007 by the learned Appellate Tribunal, whereby the adjudication order dated 08.02.2002 was quashed and the matter was remanded back for fresh adjudication.



5. Aggrieved by the order of the learned Appellate Tribunal, both the Centre and Abdul Hameed Rahmani preferred separate appeals before this Court under Section 35 of FEMA, 1999 read with Section 54 of FERA, 1973 being CRL.A. 700/2007 and CRL.A. 701/2007, respectively.

6. As it transpired, the above-captioned appeal, i.e. CRL.A. 701/2007, was listed before this Court for the first time on 06.11.2007, when notice was issued. Thereafter, on 22.02.2008, an interim order was granted in favour of the appellant, which was subsequently made absolute on 01.04.2009, and the present appeal (along with CRL.A. 700/2007) was directed to be listed in the category of '*regular matters as per their own turn*'.

7. Prior to the aforesaid, the appellant, Abdul Hameed Rahmani, and the Centre had also filed revision petitions, being CRL.REV.P. 151/2007 and CRL.REV.P. 152/2007, respectively, challenging the order dated 11.12.2006 passed by the learned Magistrate framing charges under Sections 6(1)(b) and 4(3)(i) of the Foreign Contribution (Regulation) Act, 1976. These revision petitions were listed for hearing on 15.03.2007, when an interim order staying the trial court proceedings was passed by this Court. Subsequently, on 21.02.2013, this Court observed that the matter required consideration, and since the connected appeals (CRL.A. 700/2007 and 701/2007) involving a similar issue were already pending adjudication and were placed in the category of 'regular matters', it



was considered appropriate to list these revision petitions in the same category. On the same day, the interim order of stay was also made absolute. Thereafter, on 29.07.2013, these revision petitions were directed to be listed in '*due course*'.

8. Consequently, the above-mentioned appeals were not taken up for hearing after 01.04.2009, and the revision petitions were not taken up after 29.07.2013.

9. Unfortunately, on 20.08.2013, the appellant, Abdul Hameed Rahmani, passed away.

10. It was only after about 13 years that the above-captioned appeal (CRL.A. 701/2007) was listed again on 14.03.2022, when notice was issued to the counsel for both sides for 27.05.2022; however, the matter continued to remain in the '*regular matters*' category and was not taken up thereafter. Similarly, the revision petition preferred by the appellant, CRL.REV.P. 151/2007, came up for hearing after a long interval on 17.08.2023.

11. According to the applicant, once these matters were taken up again for hearing by this Court, he became aware of the pendency of the present appeal filed by his late father, and accordingly decided to pursue it by filing an application for his impleadment as legal heir of the deceased appellant. Along with the said application, he also filed the present application seeking condonation of delay in moving the impleadment application.

12. A reply was filed on behalf of the DoE to both applications,



wherein it is contended that the impleadment application has been filed after an inordinate and unexplained delay of 3621 days, without any reason or circumstance being shown that could remotely justify such extraordinary delay. It is further urged that the application does not specify the provision of law under which condonation of delay is being sought. The DoE contends that where the statute does not provide for condonation of delay, such relief cannot be granted. It is also submitted that the right to appeal flows from the statute, and so does the power to condone delay or extend limitation; and since FEMA, 1999, does not provide for condonation beyond what is permitted under Section 35, the present prayer is untenable. The DoE has also stressed that litigants are always expected to be vigilant about their rights and obligations, and any person who has slept over his rights must necessarily lose them with the passage of time. It is thus prayed that both applications be dismissed.

13. In rejoinder, the applicant has submitted that the matter had been placed in the '*regulars*' category and had been tagged with connected revision petitions, which were taken up only in August 2023. It is stated that the counsel had then contacted the Centre and informed it about the hearing of the case, and it was only then that the applicant, Mohammad Rehmani, came to know about the pendency of the present appeal filed by his father. Immediately thereafter, in October 2023, he filed the present application for impleadment, along with a prayer for condonation of delay – made out of abundant caution from the date of his father's death. It is further submitted that



the DoE's objections are contrary to the statutory scheme itself, as Section 55 of FERA, 1973 expressly provides that proceedings shall continue, in the event of death or insolvency, through legal representatives. Thus, the legal heir of the deceased appellant is statutorily entitled to continue the appeal. Moreover, Section 43 of FEMA, 1999 also provides that appeals in relation to proceedings under Section 13 shall not abate on account of death and that rights and obligations shall devolve upon the legal representatives.

14. Arguments were **heard** at length from the learned counsel appearing for both sides to the aforesaid extent.

15. Having heard arguments and perused the record, this Court notes that, in the present case, the DoE, in its reply, has taken the stand that since the statute does not expressly provide for condonation of delay, such relief cannot be granted to the applicant. It has been argued that the right to file an appeal flows from the statute itself, and consequently, the power to extend the limitation period for filing any application or appeal must also emanate from the statute. It is further contended that as the FEMA, 1999 does not provide for any extension of limitation beyond what is stipulated under Section 35, the present application seeking condonation of delay is not maintainable and deserves dismissal.

16. This contention, in the considered view of this Court, is misplaced and unmerited. It is important to note that both Section 35 of FEMA, 1999 and its corresponding Section 54 of FERA, 1973



(since repealed) provide for filing of an appeal before the High Court against specified orders of the Appellate Tribunal (under FEMA) or the Appellate Board (under FERA). Under Section 54 of FERA, 1973, the High Court cannot entertain an appeal if it was filed beyond sixty days from the date of communication of the decision or order of the Appellate Board, unless the High Court is satisfied that the appellant had been prevented by sufficient cause from filing the appeal in time. On the other hand, Section 35 of FEMA, 1999 prescribes a similar period of limitation of sixty days from the date of communication of the decision or order of the Appellate Tribunal, however, it authorises the High Court to condone delay only up to a further period not exceeding sixty days, provided sufficient cause is shown.

17. Evidently, Section 35 of FEMA, 1999 and Section 54 of FERA, 1973 deal exclusively with the remedy of appeal before the High Court. The Sections do not address the eventuality of the death of an appellant, nor do they govern the filing of applications for impleadment of legal representatives or condonation of delay in moving such applications.

18. The statutory right to continue an appeal in the event of death has been specifically provided elsewhere. In this context, this Court's attention has rightly been drawn by learned counsel for the applicant to Section 55 of FERA, 1973 and Section 43 of FEMA, 1999 which deal with the continuation of proceedings in the event of death or



insolvency. Section 55 of FERA, 1973, *inter alia*, provides as under:

“55. Continuance of proceeding in the event of death or insolvency

(1) xxx xxx xxx

(2) Where-

(i) after the passing of a decision or order by the Appellate Board, no appeal has been preferred to the High Court under section 54; or

(ii) **any such appeal has been preferred to the High Court, and**

(a) in a case referred to in clause (i) the person entitled to file the appeal dies or is adjudicated an insolvent before preferring an appeal to the High Court; or

(b) in a case referred to in clause (ii) the person who had filed the appeal dies or is adjudicated an insolvent during the pendency of the appeal before the High Court,

then, it shall be lawful for the legal representatives of such person, or the official assignee or the official receiver, as the case may be, to prefer an appeal to the High Court or to continue the appeal before the High Court in place of such person and the provisions of section 54 shall, so far as may be, apply or continue to apply to such appeal...”

19. Thus, the above provision expressly confers a statutory right upon the legal representatives of a deceased-appellant to continue the appeal pending before the High Court in substitution of the original appellant.

20. Turning to the corresponding provision under FEMA, 1999, Section 43 provides as under:

“43. Death or insolvency in certain cases.

Any right, obligation, liability, proceeding or appeal arising in relation to the provisions of section 13 shall not abate by reason of death or insolvency of the person liable under that



section and upon such death or insolvency such rights and obligations shall devolve on the legal representative of such person or the official receiver or the official assignee, as the case may be:

Provided that a legal representative of the deceased shall be liable only to the extent of the inheritance or estate of the deceased.”

21. Section 43 makes it abundantly clear that any proceeding, liability, or appeal arising under FEMA shall not abate upon the death or insolvency of a party, and the rights and obligations shall devolve upon the legal representatives or other competent substitutes.

22. It is therefore manifest from the above provisions that an appeal pending before the High Court against an order of the Appellate Tribunal or Appellate Board does not abate upon the death of the appellant, and the statute itself ensures that the legal representatives of the deceased appellant are entitled, as a matter of right, to be substituted in his place and to continue or pursue such appeal.

23. Consequently, the right to seek impleadment of legal heirs in such circumstances is not one that arises *dehors* the statute; rather, it is one that is expressly recognised and preserved within the statutory framework of both FERA, 1973 and FEMA, 1999.

24. It is the own case of the DoE that the power to file appeals, applications, and to seek condonation of delay, must all necessarily flow from the statute itself. Proceeding on that basis, this Court is of the view that while provisions such as Section 35 of FEMA, 1999 or



Section 54 of FERA, 1973 prescribe the limitation period for filing an appeal before the High Court, the provisions governing the right of legal representatives to continue such appeal (i.e. Section 43 of FEMA, 1999 and Section 55 of FERA, 1973) do not stipulate any limitation period whatsoever. These provisions form part of a special and self-contained statutory framework, distinct from the general procedural law.

25. Insofar as the general law relating to substitution of legal representatives of plaintiffs or defendants in civil suits is concerned, the same is governed by Order XXII of the Code of Civil Procedure, 1908, read with Articles 120 and 121 of the Limitation Act, 1963. Under these provisions, an application for substitution is required to be filed within 90 days of the death of the party concerned. If it is not filed within that period, the applicant must then seek to set aside the abatement within the next 60 days. Where even that is delayed, the applicant is required to move applications for substitution and for setting aside abatement, accompanied by an application for condonation of delay in filing the latter. This legal position has been clarified by the Hon'ble Supreme Court in ***Om Prakash Gupta v. Satish Chandra***: 2025 SCC OnLine SC 291, by way of following observations:

“11. Rule 1 of Order XXII, CPC provides that when a party to a suit passes away, the suit will not abate if the right to sue survives. In instances where the right to sue does survive, the procedure for bringing on record the legal representative(s) of the plaintiff/appellant and the defendant/respondent are provided in Rules 3 and 4, respectively, of Order XXII. The suit/appeal



automatically abates when an application to substitute the legal representative(s) of the deceased party is not filed within the prescribed limitation period of 90 days from the date of death, as stipulated by Article 120 of the Limitation Act, 1963. It could well be so that death of a defendant/respondent is not made known to the plaintiff/appellant within 90 days, being the period of limitation. Does it mean that the suit or appeal will not abate? The answer in view of the scheme of Order XXII cannot be in the negative. In the event the plaintiff/appellant derives knowledge of death immediately after the suit/appeal has abated, the remedy available is to file an application seeking setting aside of the abatement, the limitation wherefor is stipulated in Article 121 and which allows a period of 60 days. Therefore, between the 91st and the 150th day after the death, one has to file an application for setting aside the abatement. On the 151st day, this remedy becomes time-barred; consequently, any application seeking to set aside the abatement must then be accompanied by a request contained in an application for condonation of delay under Section 5 of the Limitation Act in filing the application for setting aside the abatement. Thus, the total time-frame for filing an application for substitution and for setting aside abatement, as outlined in Articles 120 and 121 of the Limitation Act, is 150 (90 + 60) days. The question of condonation of delay, through an application under Section 5 of the Limitation Act, arises only after this period and not on the 91st day when the suit/appeal abates. From our limited experience on the bench of this Court, we have found it somewhat of a frequent occurrence that after abatement of the suit and after the 150th day of death, an application is filed for condonation of delay in filing the application for substitution but not an application seeking condonation of delay in filing the application for setting aside the abatement. The proper sequence to be followed, therefore, is an application for substitution within 90 days of death and if not filed, to file an application for setting aside the abatement within 60 days and if that too is not filed, to file the requisite applications for substitution and setting aside the abatement with an accompanying application for condonation of delay in filing the latter application, i.e., the application for setting aside the abatement. Once the court is satisfied that sufficient cause prevented the plaintiff/appellant from applying for setting aside the abatement within the period of limitation and orders accordingly, comes the question of setting the abatement. That happens as a matter of course and following the order for substitution of the deceased defendant/respondent, the suit/appeal regains its earlier position and would proceed for a trial/hearing on merits. Be that as it may.”

26. The Code of Criminal Procedure, 1973, on the other hand,



contains its own provisions dealing with the substitution of legal representatives in criminal proceedings. For instance, Section 394 provides for abatement of appeals, and sub-section (2) specifically stipulates that where the appeal is against a conviction and sentence of death or imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may – within thirty days of his death – apply to the appellate court for leave to continue the appeal; and if such leave is granted, the appeal shall not abate. Any application filed beyond this period of thirty days has to be accompanied by an application under Section 5 of the Limitation Act seeking condonation of delay.

27. FERA, 1973, undisputedly, is a criminal statute, but as noted above, its Section 55 does not provide any timeline within which the legal representative of the appellant is required to file an application for his impleadment. Further, Section 43 of FEMA, 1999 goes a step further in providing that an appeal shall not abate by reason of death, and that all rights and obligations of the deceased shall devolve upon his legal representatives.

28. In view of this statutory scheme, the right of the present applicant to seek substitution as legal representative and to continue the present appeal cannot be curtailed, for such a right is specifically preserved under the governing statute.

29. Be that as it may, even examining the present case from the standpoint of reasonableness, the circumstances of the present case



clearly indicate that no undue delay can be attributed to the applicant. The record shows that the present appeal had been heard initially, and an interim order had been granted in favour of the appellant. Thereafter, the case was placed in the category of '*regular matters as per its own turn*' in the year 2009, and it was not taken up for hearing till the year 2022, when it was again placed in the same category after merely issuing court notice to the counsels. The appellant, Abdul Hameed Rahmani, had passed away in 2013. Given that the appeal had not been listed for hearing at any time between 2009 and 2022, it cannot be said that it was unreasonable on the part of the applicant to file the present application for substitution as legal representative only in 2023, upon learning of the pendency of the appeal. The long non-listing of the matter, coupled with the absence of any proceedings during this period, provides a satisfactory and justifiable explanation for the delay.

30. In this regard, it would also be apposite to refer to the observations of the Hon'ble Supreme Court in ***Perumon Bhagvathy Devaswom v. Bhargavi Amma***: (2008) 8 SCC 321, though rendered in the context of civil proceedings, which aptly capture the situation in the present case:

“16. In contrast, when an appeal is pending in a High Court, dates of hearing are not fixed periodically. Once the appeal is admitted, it virtually goes into storage and is listed before the Court only when it is ripe for hearing or when some application seeking an interim direction is filed. It is common for appeals pending in High Courts not to be listed at all for several years. (In some courts where there is a huge pendency, the non-hearing period may be as much as ten years



or even more.) When the appeal is admitted by the High Court, the counsel inform the parties that they will get in touch as and when the case is listed for hearing. **There is nothing the appellant is required to do during the period between admission of the appeal and listing of the appeal for arguments** (except filing paper books or depositing the charges for preparation of paper books wherever necessary). The High Courts are overloaded with appeals and the litigant is in no way responsible for non-listing for several years. **There is no need for the appellant to keep track whether the respondent is dead or alive by periodical enquiries during the long period between admission and listing for hearing.** When an appeal is so kept pending in suspended animation for a large number of years in the High Court without any date being fixed for hearing, there is no likelihood of the appellant becoming aware of the death of the respondent, unless both lived in the immediate vicinity or were related or the court issues a notice to him informing the death of the respondent”

(Emphasis added)

31. The circumstances in the present case are akin to those mentioned above, and it is pertinent to note that this is not a simplicitor case of condonation of delay, but one involving peculiar facts and circumstances where – the appeal had been preferred in 2007, placed in the ‘*regular matters*’ category in 2009, and then remained unlisted for nearly thirteen years. The appellant passed away in 2013, the appeal was listed once in 2022 and again relegated to the ‘*regular matters*’ list, and it was only when the connected criminal revision petitions were taken up in 2023 that the applicant, being the son of the deceased-appellant, became aware of the pendency of this appeal before this Court. These circumstances, viewed cumulatively, provide a reasonable and *bona fide* explanation for the delay in filing the impleadment application.



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32. In the totality of the above discussion, this Court finds that the applicant has made out a sufficient cause for condonation of delay. The statutory provisions of FERA, 1973 and FEMA, 1999 themselves confer a right upon the legal representatives to continue pending proceedings, and the applicant had filed these applications upon acquiring knowledge of the pendency of appeal, after the same were taken up for hearing in the years 2022-2023.

33. In view thereof, the application seeking condonation of delay in filing the impleadment application is allowed. Accordingly, CRL.M.A. 29294/2023 is disposed of.

34. List the present appeal along with pending applications (CRL.M.A. 12607/2007 and CRL.M.A. 29293/2023) on date already fixed i.e., 10.11.2025.

35. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
OCTOBER 27, 2025/zp