

APPELLATE TRIBUNAL UNDER SAFEMA AT NEW DELHI

1.MP-FE-25/GOA/2021(Stay)
FPA-FE-15/GOA/2021

Surendra Satish Timblo

2.MP-FE-27/GOA/2021(Stay)
FPA-FE-16/GOA/2021

Smt. Radha Satish Timblo

3.MP-FE-29/GOA/2021(Stay)
FPA-FE-17/GOA/2021

Rohan Satish Timblo

... Appellants

Versus

The Enforcement Directorate, Goa

... Respondent

4.MP-FE-32/MUM/2021(Exem)
FPA-FE-18/MUM/2021

UoI, DLA, ED, Mumbai

... Appellant

vs

Smt. Radha Satish Timblo & Ors

... Respondent

Advocates/Authorized Representatives who appeared

For the Appellant : Mr. L.S. Shetty, Adv.
Ms. N.L. Shetty, Adv.
Ms. Juhi Masan, Adv.
Mr. Vijay, Adv.

For the Respondent : Counsel appeared

CORAM

JUSTICE MUNISHWAR NATH BHANDARI
SHRI G.C. MISHRA

: **CHAIRMAN**
: **MEMBER**

FINAL ORDER
14.01.2026

This order would address batch of four appeals preferred against the order dated 11.11.2020, passed by the Adjudicating Authority, whereby penalty of Rs. 66,55,000/- was imposed on Smt. Radha Timblo, for contravention of Section 3(a) of Foreign Exchange Management Act, 1999.



penalty of Rs. 2,02,00,000/- was imposed on Rohan Satish Timblo for the contravention of the same provision of the Act of 1999 and lastly, a penalty of Rs. 55,45,000/- on Surendra Satish Timblo for the contravention of Section 3(a) of the Act of 1999.

The Appeals have been preferred by the noticees on whom the penalty has been imposed. They were served with the show cause notice, alleging that the foreign currency to the tune of USD 3,00,000/-, equivalent to Rs. 1,66,35,000/- was transmitted/dealt with in contravention of Section 3(a) of the Act of 1999. The other allegation was in reference to Euro 7,00,000/-, equivalent to Rs. 5,04,63,000/- said to have been remitted by Rohan Satish Timblo in contravention of Section 3(a) of the Act of 1999. Last allegation was in reference to USD 2,50,000/-, equivalent to Rs. 1,38,62,500/-.

The investigation revealed that the noticees have dealt with the foreign exchange in contravention of Section 3(a) of the Act of 1999, in which the first part was to obtain citizenship of St. Kitts and Nevis in June, 2012, by submitting the application forms for registration as citizens of St. Kitts and Nevis. They placed the required amount to show investment to qualify for citizenship of St. Kitts and Nevis and declared 'family assets' as source of funds for the investment. It was further alleged that Radha Satish Timblo and Rohan Satish Timblo made a donation of USD 3,00,000/- and Surendra Satish Timblo USD 2,50,000/-.

The noticees were granted citizenship of St. Kitts and Nevis in April 2013, based on investments made in Sugar Industries Diversification Fund (SIDF). It is however a fact that their citizenship was cancelled later on in the year 2017. The aforesaid is first part of the allegation in relation to the allegation for dealing in foreign exchange to obtain citizenship of St. Kitts and Nevis.

The second part of the allegation is against Rohan Satish Timblo, who sought to have settled an overseas trust named Colares Trust on 01.09.2011



in Singapore. He remitted/settle EURO 100,000 on 12.11.2012 and EURO 600,000 on 21.12.2012. Those funds are alleged to be owned by Shri Rohan Satish Timblo.

The Respondent collected evidence to prove first part of the case, which was in the form of the application forms to obtain citizenship of St. Kitts and Nevis, apart from its notarization, followed by the Police Verification, which was taken to be sufficient to prove their case and in fact, the Appellants named above said to have obtained/given citizenship in the year 2013. So far as the second part and transfer of EURO 700,000 to Singapore in reference to the trust established by Rohan Satish Timblo is concerned, reference of the letter sent by him making it reference of the transfer of EURO 100,000 in the first letter and in second letter, reference of EURO 600,000 was given and taken as a basis to draw conclusions about the transfer of funds or dealing in foreign exchange in contravention of Section 3(a) of the Act of 1999. The Adjudicating Authority found a case against the Appellants and accordingly imposed penalties separately on each Appellant. Dissatisfied by the order, three separate appeals have been preferred by individuals while an appeal has been preferred by the Department to seek enhancement of the penalty amount and accordingly all the four appeals were taken together and are decided by common order.

The argument of the Counsel for the Appellants: -

The Ld. Counsel for the Appellants submits that though allegations have been made for contravention of Section 3(a) of the Act of 1999, but no material was produced to make out a case. The basic allegation against the Appellants is for contravention of Section 3(a) of the Act of 1999 for dealing in foreign exchange without compliance of the provisions or through the authorized dealer. The allegations were made without any evidence on record to show transfer of foreign exchange by the Appellants at any stage. No documents or material could be brought on record to show any remittance.



by the Appellants, indicated by the Respondent Department. They have mainly relied on so called applications filed by the Appellants to obtain citizenship of St. Kitts and Nevis followed by its notarization, though the Appellants had denied application to obtain citizenship of the said country. The Respondent even relied on the Police Verification to take it for obtaining citizenship while it was for the Visa. The entire case has been made based on assumptions and the impugned order has been passed by the Adjudicating Authority on surmises and conjectures.

Coming to the second leg of the allegation, the Ld. Counsel for the Appellants submitted that the so called letters of Rohan Satish Timblo have been relied to show remittance of EURO 100,000 at one instance and EURO 600,000 on the other. The letters produced by the Respondent was denied. In fact, original documents were not produced during the course of hearing before the Adjudicating Authority and despite specific denial of the letters and signature on it for remittance of EURO 100,000 and EURO 600,000 in two letters alleged by the Respondent. No evidence was brought to show that in furtherance to so called letters of the Appellant, the remittance was made in foreign exchange. In the light of the aforesaid facts, the Respondent had tried to pursue the cause based on imagination and not the reality. The prayer was made to cause interference in the impugned order.

The Ld. Counsel for the Department has contested the appeal while pursuing the appeal filed by the Department itself to seek enhancement of penalty. The Ld. Counsel for the Respondent submitted that on the information received from the sources, about remittance of foreign exchange by the Appellants, the matter was taken up and investigation was caused. It was found that three Appellants were in the process of obtaining of citizenship of St. Kitts and Nevis. The fact aforesaid was fortified by the application prepared by them to seek citizenship of the said country, which was duly notarized. The statements of notary public were recorded and



endorsed the application presented by the Appellants to obtain citizenship of St. Kitts and Nevis. The fact was further fortified by the Police Verification sought by the Appellants required for citizenship of the other countries. The Counsel for the Respondent was fair to state that Police Verification was showing it to be for Visa and not for the citizenship but it is a fact that no police verification is required for Visa. Thus, it was rightly taken to be a verification to obtain proper verification for obtaining citizenship of St. Kitts and Nevis. Based on the material aforesaid, when further investigation was caused, it was found that Appellant Radha Satish Timblo remitted USD 3,00,000, equivalent to Rs. 1,66,35,000 to obtain the citizenship of St. Kitts and Nevis. In the similar manner, Surendra Timblo remitted USD 2,50,000, equivalent to Rs. 1,38,62,500. It was shown to be investment in the country of which they were intend to obtain citizenship, which was in fact granted in the year 2013 but later on cancelled in the year 2017.

The citizenship could not have been given to the Appellants without investment and remittances of foreign exchange to the said country. Thus, the Appellants were rightly caused notice to invite reply before the Adjudicating Authority. They were served with all the Relied upon Documents (RuDs) and it is only after hearing both the parties, the Adjudicating Authority passed a detailed order finding a case of contravention of Section 3(a) of the Act of 1999 and accordingly, imposed the penalty. A challenge to the penalty imposed on the Appellants has been made, though, Department also is aggrieved by the order and preferred appeal to seek enhancement of the penalty. The prayer was made to dismiss the three appeals preferred by the individuals while accepting the appeal preferred by the Department.

Both the Counsels restricted their arguments to what has been referred above and accordingly, we would deal with the rival submission of the parties.

We have considered the submissions made by the Counsel for the parties and scanned the record carefully. In the opening para, we have given reference of the facts of the case, vis-à-vis the allegations for contravention of Section 3(a) of the Act of 1999. It is alleging remittance of foreign exchange of USD 3,00,000 by Radhã Satish Timblo while 2,50,000 by Surendra Timblo. It was to obtain citizenship of St. Kitts and Nevis. The Counsel for the Department has referred to the application prepared by the individual Appellants to be submitted for obtaining citizenship and was duly notarized. It is also with police verification required for the citizenship of the above country. The facts aforesaid have been denied by the Appellants. It was submitted that no application was submitted by the Appellants to obtain citizenship. In fact, they were intending to visit the country for which only Visa was required and thereby the police verification was sought and given. It is with further statement that there is no evidence produced by the Respondent to prove remittance of foreign exchange to obtain citizenship of the other country. Facts aforesaid are required to be analyzed by us.

It would be relevant to refer Section 3(a) of the Act of 1999 and would be gainful to quote the aforesaid provision and is quoted thus: -

“3. Dealing in foreign exchange, etc.

- Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall

(a) deal in or transfer any foreign exchange or foreign security to any person not being an authorised person.”

The allegation against the Appellants is contravention of the provision quoted above. It is when a person deals in foreign exchange to a person not being an authorized person. The make out case, allegation would be that a person has dealt with in the foreign exchange to any person not an authorized person. The foundation to make out a case would lie on the

remittance of foreign exchange by way of transfer deals with it. The Ld. Counsel for the Respondent could not refer to any evidence or material to show that foreign exchange was dealt with or transferred by the Appellants. It cannot be taken on assumptions on mere preparation of the application to obtain citizenship and for that even if the application was notarized by the notary public. It would not mean the remittance of foreign exchange in contravention of Section 3(a) of the Act of 1999. It may at the best show the preparation of the Appellant to make an application to obtain foreign citizenship. We are not going on the police verification which is shown to be for Visa, however, even if it is taken for pursuing the application to obtain citizenship, the basic element of foreign remittance is missing, which could not be proved by the Department. It could have been taking the bank statement or other material to corroborate the evidence otherwise collected in the form of the citizenship application and notarization but there seems to be no effort of the Respondent to collect corroborating evidence. It could have been in the form of the bank statement and similar other evidences. The allegation cannot rest on hypothesis, on presumption. The order shows it to be based on the presumption otherwise reference of the evidence to prove the allegation would have been produced and proved.

The second part of the allegation deals with EURO 700,000 in Singapore in reference to a trust established by one of the Appellants, Rohan Satish Timblo. The Counsel for the Respondent made a reference of two letters dated 12.11.2012 and 21.12.2012, where he had indicated his intention to deal in EURO 100,000 at first instance and on the second instance, EURO 600,000. In furtherance to those letters, no material has been produced by the Respondent to prove transfer of foreign exchange or any material to corroborate the letter secured by them. Though, the Counsel for the Appellant has denied those letters and even the signature on it. It was with the specific statement that the signature on the letters is not belonging



to Rohan Satish Timblo. We do not want to go into that controversy because the crux of the issue is to be remittance of foreign exchange in contravention of Section 3(a) of the Act of 1999 which is missing. In the light of the aforesaid, we find a case in favor of the Appellants for challenge to the impugned order passed by the Adjudicating Authority and find no case in favor of the Department to seek enhancement of the penalty amount. Accordingly, we cause interference in the impugned order while allowing the appeals preferred by three individuals. The impugned order is set aside and their appeals are allowed and as a consequence, there remains no substance in the appeal preferred by the Department to seek enhancement of the penalty amounts.

Accordingly, the appeal preferred by the department is dismissed.


(Justice Munishwar Nath Bhandari)
Chairman


(G.C. Mishra)
Member

New Delhi,
14th January, 2026
'AB'

Prepared by
Checked by


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