HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

MFA No.01 of 2025
MFA No.1042 of 2025(Filing No.)
I.A.No.01 of 2025 in MFA 01 of 2025
I.A.No.01 of 2025 in MFA 1042 of 2025(Filing No.)

MFA No.01 of 2025

The Special Director,
Directorate of Enforcement,
Kolkata Regional Office, CGO Complex,
6th Floor, DF Block, Salt Lake City, Kolkata-700064

.....Appellant(s)

Versus

Shri Swapan Kumar Saha,
Proprietor of M/S Narayani Trading,
having office at Maharajganj Bazar,
Agartala, West Tripura, PIN-799001

.....Respondent(s)

MFA No.1042 of 2025(Filing No.)

The Special Director,
Directorate of Enforcement,
Kolkata Regional Office, CGO Complex,
6th Floor, DF Block, Salt Lake City, Kolkata-700064

.....Appellant(s)

Versus

Shri Bijay Kumar Saha,
Residing at Jogendranagar,
P.S. East Agartala, District-West Tripura, PIN-799001

.....Respondent(s)

For Appellant(s)	:	Mr. Amitabha Ray Barman, Adv.
For Respondent(s)	:	Mr. Purusuttam Roy Barman, Sr. Adv. Mr. Samarjit Bhattacharjee, Adv. Mr. Koomar Chakraborty, Adv.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT

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22/04/2026

This instant MFA and the accompanying application have been filed by the Special Director, Directorate of Enforcement challenging the order dt. 03.09.2024 by the Appellate Tribunal under SAFEMA in FPA-FE-1293/KOL/2004.

IA is also filed under Section 5 of the Limitation Act to condone delay of 256 days in filing the said appeal under Section 35 of the FEMA Act, 1999.

It is to be noticed that the Supreme Court in the judgment in ***Mohtesham Mohd. Ismail vs. Spl. Director, Enforcement Directorate and Another***[1] has held that such appeal by the Special Director Enforcement Directorate is not maintainable, since, he is a quasi judicial authority and he has not filed the appeal on behalf of the Central Government and has not even impleaded the Central Government as a party to the appeal. Though the case arose under the FERA Act, which is the predecessor of FEMA Act, the principle in the said judgment equally applies to the instant case.

Therefore, we hold that neither the appeal nor the application to condone the delay are maintainable as both are filed by the Special Director, Directorate of Enforcement and not by the Union of India or by him on behalf of the Union of India.

Therefore, both are dismissed as not maintainable.

(BISWAJIT PALIT, J) **(M.S. RAMACHANDRA RAO, CJ)**

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[1] (2007) 8 SCC 254