

LEGAL UPDATES

KARNATAKA HC: DISMISSED THE WRIT CHALLENGED BY THE DIRECTORS ON FEMA NOTICE IN RELATION TO RS. 180 CRORE FOREIGN EXCHANGE

In a writ filed by the Director of a Company (Petitioner) to the High Court of Karnataka, the issue was the notice and complaint issued against directors under Sec.s 16(1) and Sec. 13 of the Foreign Exchange Management Act, 1999(FEMA), which was claimed to be not valid. The case came before the bench of Justice Mr. Krishna Dixit. Petitioner argued that the notice lacked minimum particulars which had put them in a disadvantageous position of not being able to reply to same so it was liable to be held as void. HC observed that there was no prescribed format for notice as per FEMA Regulations and the notice should be adjudged not just by considering the contents especially when transactions of enormous value with foreign companies were made by the notifying company. HC also opined that there was sufficient material evidence to suggest that they were associated with the company's business. The foreign direct investment was said to be Rs 579 crore of which Rs 175.87 Crore was FEMA-tainted. HC stated that to a stranger, the words and sentences of this notice may not make much sense but the Petitioner was not a such stranger as they had already participated in the PMLA process. Lastly, the Court also noted that the notice itself had 19 pages explaining the specific roles of the Petitioners. The Court upheld the validity of the notice and directed the Petitioners to file a reply to the notice in question.