

P.N. Sashikumar and 3 ors. Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Feb-16-2000

Reported in : (2000)(68)ECC662

Judge : J T J.H., G Srinivasan

Appellant : P.N. Sashikumar and 3 ors.

Respondent : Commissioner of Customs

Judgement :

1. Shri Sulthan Khan the Ld. Counsel submitted that Shri R.G. Merchant, who was to argue the cases is not well and therefore asked for a short adjournment. We find that the case was posted earlier on two occasions namely on 1.9.99 and 3.1.2000, when also the Ld. Counsel did not appear. We therefore proceed to decide these four applications on merits today.

2. The facts of the case in brief are that from the Tool Box of Shri Sasikumar, an employee of Indian Airlines the Customs seized 20 gold bars bearing foreign markings valued at Rs. 10,02,760 at international prices. Sasikumar in his statement claimed that Shri Rawat and Shri Vichare, the other two applicants used to remove contraband gold from the aircraft. Such gold was kept in his custody until later removal.

Shri S.K. Vichare in his statement named one Sharma who had entrusted the job of removal of gold to him at consideration of Rs. 500 per piece. This Sharma when

traveling as passenger would secrete the gold in the aircraft. He deposed that Shri Sasikumar, himself and Shri Rawat would do this operation with Patil who was another associate of theirs.

He admitted removal of the gold from the aircraft. These bars were given to S.H. Patil, Shri Sasikumar and Shri Rawat, in their statements corroborated the material facts fully. The brief facts narrated by the Commissioner do not indicate the details of the statements of Shri Sanjay Patil if recorded, although in his finding he has referred to such a statement. Shri Sanjay Patil denied the statement of Shri Vichare.

3. The Commissioner in the impugned order imposed penalties of Rs. 2.5 Lakhs on each of the four applicants. They have filed appeals and the present applications seeking waiver of the pre-deposit of the penalty as also stay of recovery thereof.

4. In the applications identical prayers are made. On technical grounds the orders of confiscation have been challenged. These grounds would have to be examined in detail at the time of final hearing. Today we take note of the submissions made to the effect that all four persons were salaried employees of the Indian Airlines and that they had been placed under suspension after the detection of the case. Only on grounds of financial hardship we take a lenient view and direct each of the four applicants to deposit a sum of Rs. 10,000 as the pre-condition to hearing their appeals. This deposit is to be made within 8 weeks from the receipt of this order.

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