

Collector of Central Excise Vs. K. Ranganathan

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Court : Chennai

Decided On : Nov-02-1989

Reported in : (1990)1MLJ399

Appellant : Collector of Central Excise

Respondent : K. Ranganathan

Judgement :

Anand, C.J.

1. This appeal is directed against the order of the learned Judge in W.P.No. 808 of 1979, decided on 6.7.1982.
2. It is not necessary to go into the facts of the case as the same have been given by the learned Single Judge in the order under appeal.
3. The sole ground on which the writ petition was allowed by the learned Single Judge was the acquittal of the respondent in a criminal case. A criminal appeal at that time was admittedly pending in this Court The criminal appeal has since been dismissed though the order of confiscation of the goods has been confirmed.
4. Learned Counsel for the appellant relies upon three Division Bench Judgments of this Court in Kanniahlal Jethaji v. Central Board and Excise and Customs, New Delhi W.A.No. 106 of 1977, dated 30.6.1977, Bhuvarlal v. the Government of India, Ministry of Finance, Revenue Department, (W.A.No. 540 of 1982, dated 11-

8.1989) and The Secretary to Government of India, Ministry of Finance, New Delhi v. M.K.S. Abubachu W.A.No. 369 of 1981, dated 7.12.1988.

5. All the Division Benches have taken a consistent view that the proceedings for initiation of Criminal trial under the Criminal law (Section 135) and the departmental proceedings and the mere acquittal by the criminal court does not bind the authorities under the statute from proceeding under Section 112(b) of the Customs Act and passing appropriate orders. We are in respectful agreement with the law propounded by the Division Benches noticed above. The view taken by the learned Judge runs contrary to the settled law.

6. Since the respondent had made an admission before the statutory authorities, he is bound by that admission in so far as the departmental proceedings are concerned and the mere fact that the Criminal Court did not find sufficient evidence to convict him would not take away the material effect of that admission made before the statutory authorities, a retraction of the confession notwithstanding.

7. Learned Counsel for the respondent did attempt to take us into the facts of the case but in exercise of the appellate jurisdiction, we do not wish to be drawn into that field since the writ petition was allowed on the sole ground as noticed above.

8. Consequently, from what has been noticed above, the appeal succeeds and is allowed. There shall, however, be no order as to costs.

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