(1986) 08 P&H CK 0017

In the Punjab And Haryana At Chandigarh

Case No : First Appeal From Order No. 359 of 1978

Ajmer Singh		APPELLANT
	Vs	
Union of India (UOI) and Another		RESPONDENT

Date of Decision : 20-08-1986

Acts Referred:
Foreign Exchange Regulation Act, 1973 — Section 5(1)(a)

Citation : (1986) 10 ECC 147

Hon'ble Judges : S.P. Goyal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.P. Goyal, J.—This appeal is directed against the judgment of the Appellate Board whereby the order of the Deputy Director imposing penalty was affirmed, but the amount was reduced to Rs. 5,000/-.

2. One Bakhtawar Singh shifted to Malaysia in the year 1946 and acquired nationality of that country. His wife and son Nirbhai Singh joined him seven/eight years thereafter, that is sometime in the year 1953-54. Later on Nirbhai Singh came to India in the year 1968 for getting education and the appellant paid him Rs. 27,000/- on different occasions during the years 1968 to 1973 to meet his expenses. As Nirbhai Singh was taken to be a resident of Malaysia, proceedings were taken against the appellant u/s 5(1)(a) of the Foreign Exchange Regulation Act for making payments to him in contravention thereof and penalty imposed as stated above. The validity of the impugned order has been assailed by the learned Counsel for the appellant relying on the provisions of Section 20(1)(a) of the Act which provide that until the Reserve Bank by general or special order otherwise directs any person who has at any time after the commencement of this Act been resident in India shall be treated as still being resident in India for the purposes of this Act and of any rules, directions, or orders made thereunder. According to the rinding recorded by the authorities below, Nirbhai Singh was resident of India in the year 1953-54, till long after the enforcement of the Act.

He has, therefore, to be treated a resident of India according to the provisions of Section 20(1) referred to above. The learned Counsel for the respondents did not urge that any direction to the contrary had been made by the Reserve Bank, or that there was any fallacy in the contention raised. I have, therefore, no option but to reverse the finding of the authorities below that Nirbhai Singh was a person resident outside India when the payments [were] made to him. Accordingly, this appeal is allowed and the impugned order set aside. No costs.