
(1985) 01 P&H CK 0112
In the Punjab And Haryana At Chandigarh
Case No : S.A.O. No. 44 of 1982

Daulat Ram Sharma

APPELLANT

Vs

Director of Enforcement

RESPONDENT

Date of Decision : 10-01-1985

Acts Referred:

Citation : (1985) 6 ECC 53

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

J.V. Gupta, J.—This appeal is directed against the order of the Foreign Exchange Regulation Appellate Board dated 20th August, 1979 whereby in appeal the penalty of Rs. 10,000 imposed by the Additional Director of Enforcement vide his order dated 16th March, 1978 was reduced to Rs. 5,000. In the order under appeal it has been observed that no foreign exchange has gone out of India nor any which was receivable in India has been withheld. What the appellant did is to purchase the properties in the names of his sons from funds brought by him through authorised channels and utilised the usufruct in acquiring more property. He lent his name to the accounts being maintained in foreign banks by his sons and there is no indication that he operated the accounts. It has been further observed therein that surely when admittedly there is no trafficking in foreign exchange, it would lacerate the mind of an Indian businessman coming home in the evening of his life, if he is asked to pay Rs. 10,000 for purchasing property in the name of his sons and hence the ends of justice would be met by reducing the penalty to Rs. 5000.

2. After hearing the learned Counsel for the parties I am of the considered view that on the basis of the observations made in the order under appeal it was a fit case where even the penalty of Rs. 5000 was not warranted and only a sum of Rs. 500 would have met the ends of justice. Moreover, it was only a technical offence, and therefore, such a heavy penalty was not warranted.

3. Consequently the penalty is reduced from Rs. 5000 to Rs. 500 and the appeal is allowed to that extent and disposed of accordingly.