

(2010) 12 DEL CK 0158

In the Delhi High Court

Case No : Criminal Rev. P. 436 of 2010

Directorate of Revenue Intelligence

APPELLANT

Vs

Sunil Gulati and Another

RESPONDENT

Date of Decision : 22-12-2010

Acts Referred:

Customs Act, 1962 — Section 135(1)

Citation : (2010) 12 DEL CK 0158

Hon'ble Judges : S.N. Dhingra, J

Bench : Single Bench

Advocate : Satish Aggarwala, for the Appellant; Chetan Lokur and V.R. Datar for R-1 and R-2, for the Respondent

Judgement

Shiv Narayan Dhingra, J.—Present revision petition has been filed by the Petitioner against an order of discharge in a case brought up by the Petitioner against the Respondent in illegal export of foreign currency. Foreign currency worth ` 41,22,050/- was seized from the Respondent. The Petitioner thereafter filed a complaint u/s 135(1)(a) of the Customs Act, 1962 and adduced pre-summoning evidence, on which the accused was summoned and thereafter pre-charge evidence was adduced and the accused was discharged by the learned ACMM mainly on the ground that the sanction for prosecution of Respondent was given by the sanctioning authority in a mechanical manner and it was not stated as to what material was considered by the sanctioning authority at the time of grant of sanction and how sanctioning authority came to know about the actual facts of the case. The learned ACMM had passed a similar order in another case which was assailed before this Court in CrI. Rev. P. 305 of 2010. This Court vide order dated 25th October, 2010, found that the order passed by the learned ACMM was patently illegal. The judgment of this Court in Directorate of Revenue Intelligence v. Mohd. Anwar squarely covers this revision petition. The order dated 17th May, 2010, passed by the learned ACMM, discharging the accused is set aside for the reasons given by this Court in the aforesaid judgment.

2.The parties are directed to appear before ACMM concerned on 7th January, 2011. The learned ACMM shall proceed with the trial.