
(1984) 01 P&H CK 0042

In the Punjab And Haryana At Chandigarh

Case No : Second Appeal from Order No. 67 of 1982

Maharaja Fasteners

APPELLANT

Vs

Director of Enforcement

RESPONDENT

Date of Decision : 27-01-1984

Acts Referred:

Foreign Exchange Regulation Act, 1973 — Section 27(1), 54, 9(1)

Citation : (1985) 4 ECC 40 : (1987) 30 ELT 318

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

Bench : Single Bench

Advocate : Vijay Jhanji, for the Appellant; Ashok Kumar, for the Respondent

Final Decision : Dismissed

Judgement

J.V. Gupta, J.—This order will dispose of S.A.Os. Nos, 67 of 1982 and 53 of 1983, as both of them arise out of the same order of the Foreign Exchange Regulation Appellate Board (hereinafter called the Board), dated August 20, 1982.

2. The Enforcement Directorate alleged that during the years 1976-1980, the appellant firm being a person resident of India, entered into an agreement to pay commission and associated itself with one Bhupinder Singh, a person resident outside India, in Iran, who was engaged in trading activity, without the permission of the Central Government and thereby violated Section 27(1) of the Foreign Exchange Regulation Act, 1973, (hereinafter called the Act). Memorandum dated September 19, 1981, was issued to the firm through Shri Badhe Mohan, its managing artner, alleging that during the years 1976-1980 the firm through its managing partner placed a sum of Rs. 88,475.44 to the credit of a person resident outside India, without any general or special exemption from the Reserve Bank of India and, thus, contravened the provisions of Section 9(1) (e) of the Act. Another memorandum of the same date was issued on the allegations that the firm through its managing partner made a payment of Rs. 5,000/- to a person resident outside India by order or on behalf of the person resident outside India during the year 1977, without any general or special

permission from the Reserve Bank of India and thereby contravened the provisions of Section 9(1)(d) of the Act. Still another memorandum dated September 19, 1981, was issued to the firm. Alleging that during the years 1976-80, it made a payment of Rs. 45,500/- to a person resident in India, by order of on behalf of a person outside India, without any general or special exemption from the Reserve Bank of India and, thus, contravened the provisions of Section 9(1)(d) of the Act. Based on those memoranda, proceedings were initiated against the firm. The Adjudicating Officer held that all the four charges leveled against the firm were established and imposed penalties aggregating to Rs. 16,000/- on it. In appeal, the Board set aside the findings of the Adjudicating Officer so far as the first and the second charges were concerned. As regards the third and the fourth charge, it held that the firm had paid the amount mentioned in those charges to various persons on the instructions of the said Bhupinder Singh and that the findings of the Adjudicating Officer in that regard were based on the material on record. However, the penalty imposed by the Adjudicating Officer on account of the third and the fourth charge was reduced from Rs. 10,000/- to Rs. 6,000/-. Dissatisfied with the same, two appeals have been filed in this Court. S.A.O. No. 67 of 1982, has been filed on behalf of the appellant firm whereas S.A.O.No. 53 of 1983, has been filed on behalf of the department.

3. u/s 54 of the Act, an appeal shall lie to the High Court only on a question of law from any decision or order of the Board. Thus, the scope for interference by the High Court in second appeal is very limited.

4. No meaningful argument to challenge the findings of the Board as to be interfered with by this Court has been raised. However, as regards the amount of penalty, I find that the minimum penalty of Rs. 5,000/- would meet the ends of justice.

5. Consequently, S.A.O. No. 53 of 1983, fails and is dismissed whereas S.A.O. No. 67 of 1982 is partly accepted to the extent that the penalty imposed is reduced from Rs. 6,000/- to Rs. 5,000/- only.