

(2001) 08 DEL CK 0273

In the Delhi High Court

Case No : CW. No. 92/01

Shri Raman Gupta and another

APPELLANT

Vs

Director of Enforcement and Another

RESPONDENT

Date of Decision : 29-08-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Foreign Exchange Regulation Act, 1973 — Section 50, 51

Citation : (2001) 94 DLT 489 : (2001) 60 DRJ 813 : (2002) 79 ECC 160 :
(2002) 139 ELT 538

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : Sh. R.K. Handoo, P. Ojha and R.P. Ranjan, for the Appellant; Mr. K.K. Sud, A.S.G., Sh. Neeraj Jain and N.K. Pandey, for the Respondent

Final Decision : Dismissed

Judgement

Mukul Mudgal, J.—Rule.

2. This writ petition seeks the return of Rs.7.50 lacs seized from the residence of the petitioner No.1 with interest. The petitioner Nos. 1 and 2 are Sh. Raman Gupta and Sh. Amerjit Singh Chawla respectively. The respondent Nos. 1-2 are Director of Enforcement, New Delhi. The case of the respondents is that a sum of R. 7.50 lacs which was seized from the residence of the petitioner No. 1 as the sale proceeds of foreign currency which was illegally sold.

3. The Memorandum u/s 50 & 51 of the Foreign Exchange Regulation Act was issued to Shri Girish Chander @ Pincky & Shri Ashok Chopra @ Billa and a copy of the notice was endorsed to petitioner No. 1. The petitioner No. 1 has sought the refund of the said amount of Rs. 7.50 lacs seized from hi. The petitioner No. 1's contemporaneous statement was that the amount of Rs. 7.50 lacs has no connection with any illegal foreign exchange transaction but is in fact a loan from one Shri Dinesh Sarna who is an Advocate and Financial Consultant. However, the petitioner No. 1 later adopted the stand taken by Shri Sarna. The

respondents have sought to rebut this plea by relying upon Dinesh Sarna's stand which was to the effect that Rs.7.50 lacs were for investment. The petitioner No. 1's further plea is that he has merely been endorsed a copy of notices u/s 50 & 51 issued to Girish Chander and Ashok Chopra and his legitimate funds were confiscated without affording any opportunity of hearing to him. He has further stated that since 1998 the adjudication proceedings are going on blocking his funds.

4. Mr. Sud, the learned Addl. Solicitor General appearing on behalf of the respondents states that an opportunity of hearing will be given to the petitioner No. 1 if a request for the same is made to the Adjudicating Officer. I, Therefore, direct that if such a request is made to the adjudicating Officer, Mr. Raman Gupta, petitioner No. 1 will be given an opportunity of hearing. Mr. Handoo, the learned counsel for the petitioner has submitted that the proceedings have been pending since 1998 and Mr. Sud in response submits that since Mr. Ashok Chopra is evading service, that adjudication proceedings are not being disposed of. He further states that as soon as Ashok Chopra is served, adjudication proceedings will be disposed of expeditiously and not later than 9 months after Ashok Chopra is served and puts in appearance before the Enforcement Director. He also states that the respondents will take expeditious steps to serve Mr. Ashok Chopra in accordance with law so that the proceedings are finalized at an early date. Since the stand of the respondents, which is disputed by the petitioner, is that the sum of Rs. 7.50 lacs are the proceeds of the illegal sale of foreign exchange, and adjudication proceedings in respect of the same are pending, Therefore, this is not a case where the Court can interfere under Article 226 at this stage.

5. In this view of the matter, no interference is called for and the writ petition is accordingly dismissed with aforesaid directions. Liberty to approach the Court in case the aforesaid directions are not allowed. There shall be no orders as to costs.