

(2001) 04 DEL CK 0090

In the Delhi High Court

Case No : LPA 72 of 1982

Union of India

APPELLANT

Vs

Shri Sain Ditta Mal and another

RESPONDENT

Date of Decision : 30-04-2001

Acts Referred:

Citation : (2001) 5 AD 677 : (2001) 92 DLT 431

Hon'ble Judges : M.S.A. Siddiqui, J;B.A. Khan, J

Bench : Division Bench

Advocate : Mr. H.S.Phoolka and Mr. Amit Andley, for the Appellant; Mr. R.M. Bagal, for the Respondent

Judgement

Khan, (J.

1. 120 round pieces of gold are at the centre of controversy in this appeal. Customs authorities seized this gold way back on 6.7.1996 from respondents residence. NO steps were, however, taken for its confiscation within the prescribed period under the Customs Act. On the contrary they issued a show cause notice to them for its proposed confiscation and levy of penalty under Rule 126. They replied to this, but collector passed order dated 13.9.1968 confiscating the gold in question and imposing a penalty of Rs.10,000/- each on them. They took appeal against this wherein only penalty was reduced to Rs.4,000/-. They then filed two writ petitions (C.W.266 and 293/1971) and challenged the validity of the action for having been taken beyond prescribed statutory period. Appellants defended this by seeking shelter both under the Customs Act and the DIR. But, controversy still persisted as the Gold Control Ordinance/Act came into force meanwhile triggering the issue whether the show cause notice was to satisfy its requirements also. Writ Court alternated between abstract legal propositions and eventually allowed respondents writ petitions setting aside the confiscation order and directed return of gold but leaving the imposition of penalty intact.

2. Appellants have filed this appeal in 1982 and obtained an interim stay order and as a result this disputed gold remains in their custody.

3. When this matter was being considered we found that much water had flowed down since the seizure of the gold in 1966 and even Gold Control Act stood repealed by now. We also noticed that the issue was stuck in an abstract legal stalemate of sorts, and it was still to be explored which set of laws would be attracted to the matter.

4. It was in these circumstances that respondents counsel Mr. Bagai volunteered to forgo respondents claim to 50% of the seized gold, if it was given to Gujarat Earthquake Relief Fund. Impressed by the offer and convinced of the futility of litigation which had already taken 40 years and could rage for years on more, we thought it just and appropriate to dispose of this Appeal to the mutual satisfaction of parties by an appropriate order.

5. For this we took in regard the time and money invested by respondents in contesting this litigation for as good as four decades. Shorn of technicalities of law involved they deserved to be compensated for that at least. We are also told that the seized gold was worth only Rs. 4 lacs or so at present price and if its 50% was returned to respondents pursuant to writ court order, they would receive Rs.2 lacs which would compensate them for pursuing this litigation all these years. Therefore all things considered, and with a view to end any further litigation between the parties, we dispose of this Appeal by providing as under:-

"Appellants shall release 60 pieces of seized gold to three legal heirs of respondent no.1 in equal proportion within two months from receipt of this order and deposit remaining 60 pieces or present value thereof in the Prime Minister's Relief Fund for Gujarat Earthquake Victims.