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C.A.No. 12737 OF 1996

ITEM No.105

Court No. 10

SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 12737 of 1996

M. RAMA RAO

Appellant (s)

VERSUS

ASSTT. DIRECTOR & ANR.

Respondent (s)

(With office report)

Date : 05/08/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAV V. PATIL
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)Mr. T.L.V. Iyer,Sr.Adv.
Mr. T.G.N. Nair,Adv.
Mr. Ramesh Babu M.R.,Adv.

For Respondent (s)Mr. K.K. Sud,ASG.
Mr. T.V. Ratnam,Adv.
Mr. B.K. Prasad,Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard learned counsel for the parties from 12.35 p.m. to 2.40 p.m.

The civil appeal is dismissed.

No order as to costs.

[T.I. Rajput][Shelly Sengupta]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.12737 OF 1996

M. Rama Rao ...Appellant(s)

Versus

Asstt. Director & Anr. ...Respondent(s)

O R D E R

The appellant was proceeded with for violating Section 9(1)(b) of the Foreign Exchange Regulation Act, 1973 [for short, 'the Act']. In the raid conducted on the premises of one Haroon Jan Mohamed of Bombay, a diary was seized. In that diary, names of several persons with their telephone numbers were available. On the intelligence report that the appellant had received a sum of Rs.16,600/- in contravention of the Act, an inquiry was initiated by issue of summons under Section 40 of the Act. A show-cause notice was given and the appellant replied to it. The adjudicating authority, on the basis of the statements of Haroon Jan Mohamed and one H.L. Joshi, came to the conclusion that the violation alleged against the appellant was established.

In that view, he passed an order imposing penalty of Rupees two thousand on the appellant. The appellant challenged the order of the adjudicating authority

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in appeal. The appellate authority did not find any good or valid ground to interfere with the said order. Consequently, the appeal was dismissed. Not satisfied and aggrieved by the order passed by the appellate authority, the appellant filed a miscellaneous first appeal before the High Court. It may be noted here itself that an appeal against such order lies only on a question of law. The Division Bench of the High Court, after consideration of the respective contentions and keeping in view the material placed on record, including the findings recorded by the adjudicating authority as well as by the appellate authority, concurred with the conclusions arrived at and did not find any good ground to take a view different than the one taken by the appellate authority affirming the order of the adjudicating authority. However, the amount of penalty was reduced from Rupees two thousand to Rupees seven hundred and fifty.

Before us, the learned senior counsel for the appellant strongly contended that this is a case where there is no evidence of receiving any money from abroad, as far as the appellant is concerned, and there is also no evidence to connect the appellant with the actual delivery of the money to him. The learned counsel argued that, admittedly, when the amount was delivered through delivery boys of courier service and those boys having not been examined, there is a missing link as to the delivery of money. The adjudicating authority has considered this submission in detail. While adjudicating, the authority has relied upon the statements of Haroon Jan Mohamed and H.L. Joshi, whose statements run against their interest also. It may be stated that the statements of these two witnesses remain unchallenged. The appellant, if he was really serious to challenge their

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statements, should have definitely made efforts to summon them for cross-examination. Further, the authorities have taken note of the fact that in the diary which was seized from the premises of Haroon Jan Mohamed, the name of the appellant was found and his telephone number was noted. Looking to these circumstances, a finding of fact was recorded by the adjudicating authority. The appellate authority on re-appreciation of the evidence, and in our view in proper perspective, confirmed the same. The High Court also did not find any good ground to take a different view. In the given circumstances and on the facts found keeping in view of the evidence on record, it is not possible to say that this is a case where conclusions are not based on evidence or conclusions are not arrived at on the basis of the evidence. In other words, the appreciation of evidence has not been perverse. It is based on preponderance of evidence and exercising our jurisdiction at this stage, it is not possible to interfere with the impugned order. Consequently, the civil appeal is dismissed but with no order as to costs.

.....J.
[SHIVARAJ V. PATIL]

.....J.
[D.M. DHARMADHIKARI]
New Delhi,
August 05, 2003.