

CASE UNDER SEA CUSTOMS ACT

APPEAL DISMISSED BY SUPREME COURT

(FROM OUR LEGAL CORRESPONDENT.)

NEW DELHI, April 17.

The Constitution Bench of the Supreme Court, in dismissing today the appeal preferred by Maqbool Hussain against the judgment of the Bombay High Court, held that Article 20 (2) of the Constitution, which laid down that no person could be prosecuted and punished for the same offence more than once, applied only to criminal proceedings before a court of law or a judicial tribunal and not to decisions of administrative bodies.

On this interpretation of Article 20 (2) of the Constitution, the court came to the conclusion that the initiation of criminal proceedings under Section 8 of the Foreign Exchange Regulation Act against Maqbool Hussain after the 107 tolas of undeclared gold seized from him at Santa Cruz airport on November 6, 1949, had been confiscated by the Customs authorities under Section 167 (8) of the Sea Customs Act, did not amount to a violation of Article 20 (2). The Sea Customs authorities, the court held, were not a judicial tribunal and the adjudicating of confiscation, increased rate of duty or penalty under the provisions of the Sea Customs Act did not constitute a judgment or order of a court or judicial tribunal necessary for the purpose of supporting a plea of double penalty.

Mr. Justice Bhagwati who delivered the judgment of the court, said that when the customs authorities confiscated the gold in question, neither the proceedings taken before the Sea Customs authorities constituted a prosecution, nor did the order of confiscation constitute a punishment inflicted by a court or judicial tribunal on the appellant. The appellant could not be said by reason of these proceedings before the Sea Customs authorities to have been "prosecuted and punished" for the same offence with which he had been charged before the Chief Presidency Magistrate, Bombay, in the complaint which had been filed against him under Section 23 of the Foreign Exchange Regulation Act.