

Customs, Excise and Gold Tribunal - Mumbai

Ali Mohammed Saale vs Commissioner Of Customs (P) ... on 22 May, 2001

ORDER J.H. Joglekar, Member (Technical)

1. The facts leading to the present applications are as follows. Rajiv Ghanekar was intercepted at the airport and foreign exchange totally amounting to US \$ 59600 was recovered from him. He deposed that the currency was given to him by one Ali, son of the present applicant, which currency in turn had been supplied by one Jain. Ali and Jain were not available for interrogation. Ali Mohd. Saale, present appellant gave a confessional statement that he used to purchase foreign exchange from travellers and he used to export the same. He confessed to having been in smuggling profession from 1970 and never been caught. The statement was retracted by him on the same day. The Commissioner confiscated the currency and imposed penalty on Ghanekar of Rs. 2 lakhs and on the present applicant of Rs. 5 lakhs. The present applicant has filed an appeal and this application for waiver of pre-deposit of penalty.

2. Ld. Counsel Shri Ravi Irani, advocate submits that the retracted statement has no value and that no other person has supported the confessional statement. In reply to a query he said that the Court had released the applicant on furnishing of a bail. We find that the Commissioner has relied upon certain judgements of the Supreme Court, which deal with retraction of confessional statements. He has also taken into account, the details of the disclosures made by the applicant in the statement. We have also taken into account his financial condition. In these considerations, we direct him to deposit Rs. 50,000 as pre-deposit to hearing the appeal. He is given a period of 8 weeks from today to make the deposit. If he fails to comply with the directions made, his appeal will be dismissed without further notice.