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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 286/2009

% **Date of decision: 14th September, 2009**

JASWINDER SINGH Petitioner
Through Mr. Shailendra Bhardwaj & Mohd.
Saleem, Advocates.

versus

ENFORCEMENT DIRECTORATE Respondent
Through Mr. Vineet Malhotra, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest ?

ORDER

1. Penalty of Rs.1 crore has been imposed on the petitioner-Mr. Jaswinder Singh vide adjudication order dated 27th June, 2008 for violation of Section 9(1)(d) of the Foreign Exchange Regulation Act, 1973 (hereinafter referred to as the Act, for short). On an appeal filed by the petitioner, the Appellate Tribunal for Foreign Exchange by the impugned order dated 23rd October, 2008 has directed deposit of 20% of the penalty amount, i.e. Rs.20 lacs, as a pre-condition for hearing of his appeal on merits.

2. Learned counsel for the petitioner submitted that the allegations

against the petitioner have not been substantiated and the adjudication order relies upon statement of co-accused. It is stated that no recovery was made from the petitioner and the statement of the petitioner recorded under the Act is interpolated and there are material changes. On the other hand, learned counsel for the respondent-Enforcement Directorate has drawn my attention to the findings recorded in the adjudication order. He states that it is an admitted case that Mr. Jaswinder Singh is a citizen of Afghanistan and has made repeated visits to India. He states that one Mr. Mohd. Muslim alias Gullu in his statement has given full details how Mr. Jaswinder Singh was involved in hawala transactions. He has also drawn my attention to the averments made in the writ petition that the petitioner had exported goods worth more than Rs.3 crores in a year and till today the petitioner has exported goods worth Rs.13.50 crores from India.

3. The figures mentioned in the impugned order refer to payments of Rs.35 lacs received by Mr. Jaswinder Singh from various persons and these were forwarded to others. It is recorded in paragraph 3 of the impugned order that the petitioner had received Rs.60,000/- in Pakistani currency in February, 1998. However, no recovery or seizure of money was made from the residence of the petitioner except documents.

4. After some hearing, learned counsel for the petitioner states that the petitioner will deposit Rs.10 lacs with the Enforcement Directorate in two

installments of Rs.5 lacs each. The first installment will be paid on or before 15th October, 2009 and the second installment will be paid on or before 16th November, 2009.

5. Keeping in view the facts and circumstances of the case, the statement made by the learned counsel for the petitioner is fair and just. It is accepted. The impugned order is accordingly modified to the extent that the appeal filed by the petitioner before the Appellate Tribunal for Foreign Exchange will be heard on deposit of Rs.10 lacs in two installments as stated above. In case the petitioner fails to make the said deposits in terms of the statement, the Appellate Tribunal for Foreign Exchange will be entitled to deal with the appeal in accordance with law.

The writ petition is disposed of.

SANJIV KHANNA, J.

SEPTEMBER 14, 2009
VKR