

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

+ **W.P(C) No.7254/2009 & CM No. 2974/2009**

% **Date of Decision: 22.09.2009**

A.S. ANEJA @ AMARJIT SINGH ANEJA Petitioners
Through: Mr. Anish Dhingra, Advocate.

Versus

UNION OF INDIA & ANR. Respondents
Through: Mr. K. Singhal and Mr. Vineet
Malhotra, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J. (ORAL)

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1. The petitioner has impugned the order dated 7th September, 2007 of the Appellate Tribunal for Foreign Exchange (hereinafter to be referred as 'Appellate Tribunal') in Appeal No. 2 of 2007 titled "Amarjit Singh Aneja Vs. Director, Enforcement Directorate", dismissing the application of the petitioner seeking dispensation with the pre-deposit of the amount of penalty.

2. The petitioner had filed Appeal No. 2 of 2007 against the Adjudicating Order No. DD(AV)/3/Adj./DZ/06 dated 11th July, 2006 imposing a penalty of Rs. 5 lacs for alleged contravention of Section 8(1) read with Section 64(2) of the Foreign Exchange Regulation Act, 1973.

3. The petitioner had filed an application seeking dispensation with the pre-deposit of the amount of penalty on the ground of undue hardship and *prima facie* case on the basis of retracted admission of co-noticee. The Appellate Tribunal after hearing the petitioner in person directed the petitioner to deposit Rs. 4 lacs after adjusting the amount allegedly lying with the Directorate of Enforcement of Rs. 3 lacs.

4. It appears that the petitioner did not comply with the order and an review application was filed relying on *Dwarka Das vs. State of Andhra Pradesh* (1999) 3 SCC 500 and *UPSRT Corporation vs. Imtiaz Hussain* 2005 (10) SCC 497. The application was dismissed by order dated 7th September, 2007 which is challenged by the petitioner.

5. The learned counsel for the petitioner has pointed out that the petitioner had filed 40 appeals before the Appellate Tribunal impugning various penalty orders passed by the Adjudicating Authority under the Foreign Exchange Regulation Act, 1973. In these appeals, which were filed before the Appellate Tribunal, total penalty imposed on the petitioner was Rs.2 Crores which was imposed by separate orders and in respect of which dispensation applications were filed. Against one of the order dismissing the application for dispensation of pre-deposit a writ petition filed being Writ Petition (Civil) No. 1344 of 2008 titled A.S. Aneja @ Amarjit Singh Aneja vs. Union of India & Anr. an order dated 5th May, 2009 has been passed. By the said order dated 5th May, 2009, the petitioner has been directed to deposit Rs.22.15 Lacs towards the penalty amount of Rs. Two Crores made in all the appeals which were pending before the Appellate Tribunal in which the applications for dispensation from pre-deposits were dismissed.

6. Since the petitioner had already deposited Rs. 7.5 lacs with the Adjudicating Authority, the petitioner was permitted to deposit the balance amount of Rs. 15 lacs with the Adjudicating Officer in three equal installments of Rs. 5 lacs each.

7. The learned counsel for the petitioner contends that the petitioner has already deposited Rs. 10 lacs and the balance amount of Rs. 5 lacs was to be deposited by 15th September, 2009. The learned counsel further contends that for depositing the balance amount of Rs. 5 lacs, the petitioner has already filed an application for extension of time.

8. In view of the order dated 5th May, 2009 passed in Writ Petition (Civil) No. 1344 of 2008 titled A.S Aneja @ Amarjit Singh Aneja vs. Union of India & Anr., the present petition is also disposed of subject to the petitioner depositing the amount as ordered by order dated 5th May, 2009 passed in WP(C) 1344 of 2008 and in compliance with the terms and conditions imposed in the said writ petition. The petitioner is also directed to file an affidavit and undertaking before the Adjudicating Authority giving details of all his assets; moveable and immovable. The petitioner shall also file an undertaking that he will not sell, encumber or part with possession of his immovable assets without prior permission of the Adjudicating Officer. The petitioner shall also file and execute the surety deed in respect of his immovable properties which are on rent and the petitioner will also furnish full details of his bank accounts to the Adjudicating Officer.

9. The petitioner, however, will be permitted to withdraw the money from his bank account for his day-to-day needs and he shall also furnish monthly statements of his bank account to the Adjudicating Officer.

10. In the facts and circumstances and pursuant to above stated conditions, the Appellate Tribunal will hear the Appeal No.2 of 2007 against the adjudicating order 7th September, 2007. The interim order dated 2nd March, 2009 is thus modified to this extent and the present writ petition is disposed of. The pending application also stands disposed of as well. Parties are, however, left to bear their own costs.

September 22, 2009

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ANIL KUMAR, J.