

SUPREME COURT OF INDIA

Kripal Singh

Vs.

Collector of Customs (Preventive) Patna

(S Agrawal and D Wadhwa JJ.)

01.09.1998

ORDER

S.C. Agrawal and D.P. Wadhwa, JJ.

1. This appeal has been filed against the judgment of the Customs Excise and Gold (Control) Appellate Tribunal, East Regional Bench, Calcutta (hereinafter referred to as 'the Tribunal') dated March 18, 1994 whereby the Tribunal has reduced the fine in lieu of confiscation of the truck of the appellant from Rs. 50,000/- as imposed by the Additional Collector to a sum of Rs. 25,000/-. A preliminary objection has been raised by the learned Counsel for the respondent against the maintainability of the appeal on the ground that in view of Section 130E an appeal does not lie in this Court because the impugned judgment of the Tribunal does not relate to the rate of duty of Customs to the value of goods for the purpose of assessment. Although, we find merit in the aforesaid preliminary objection raised by the learned Counsel for the respondent but we have also examined the matter on merits in order to consider whether it was a case in which we may grant special leave to appeal against the impugned judgment of the Tribunal and we have heard the learned Counsel for the appellant in that regard. We find that no case is made out for interference by this Court with the impugned orders relating to confiscation of the truck of the appellant and the imposition of redemption fine in lieu of confiscation in the facts of this case since the appellant has failed to prove, as required under Section 115(2) of the Customs Act, 1962, that at the time when the contraband goods were found in the truck it was being used without the knowledge or connivance of the appellant/his agent or the person in charge of the said truck. The appeal is, therefore, dismissed. No order as to costs.

