Poolpandi v. Superintendent, Central Excise

Whether a person summoned and questioned by Customs or Central Excise officers is entitled to have his lawyer present during interrogation.

Date of Order: May 14, 1992
Case Law No: GIB-SC-1922-01
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

Persons summoned under Sections 107 and 108 of the Customs Act and Sections 39 and 40 of the Foreign Exchange Regulation Act wanted their lawyers to be present during questioning. They relied on Articles 20(3) and 21 and argued that without a lawyer the examination would be unfair. The High Court had allowed the presence of a lawyer in one matter, and the Department appealed.

Final Verdict

The Court held that these officers are not police officers and that a person being questioned under these provisions is not an accused within the meaning of Article 20(3), because the protection does not reach the stage of inquiry. **There is no right to have a lawyer present during interrogation, and the claim under Article 21 fails the "just, fair and reasonable" test.** The Court observed that the Constitution should not be stretched to benefit persons engaged in tax evasion at the cost of the exchequer.

The appeal against the permission for a lawyer was allowed to that extent, and the other petitions were dismissed with costs. The Court also extended the time available under Section 110 of the Customs Act, since time had been lost to the litigation.

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