K.I. Pavunny v. Assistant Collector (HQ), Central Excise Collectorate

Whether a confession made to Customs officers under Section 108, later retracted, can alone support conviction without corroboration.

Date of Order: February 3, 1997
Case Law No: GIB-SC-1997-01
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The appellant made a statement in his own hand to Customs officers under Section 108 of the Customs Act, 1962 admitting possession of gold. He retracted it at trial. A two-Judge Bench referred the question whether such a retracted confession is admissible and can form the basis of conviction, and whether it needs corroboration in material particulars.

Final Verdict

The Court held that a confession can form the sole basis of conviction, and that if it is retracted the Court must first test whether it was voluntary and true. **A retracted confession that is found to be voluntary and true can sustain conviction, and corroboration is sought only as a rule of prudence and practice.** The burden is on the accused to show threat, duress or promise. The detailed statement, written in his own hand, was found to be voluntary and true.

The conviction under Section 135(1)(i) of the Customs Act and under the Gold (Control) Act was upheld. Because of the passage of time, the Court replaced the prison sentence with fines of Rs 10,000 and Rs 5,000.

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