# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
# ALLAHABAD

REGIONAL BENCH - COURT NO.I

**Customs Appeal No.70822 of 2024**

(Arising out of Order-in-Appeal No.278-CUS/APPL/LKO/2024 dated 24.04.2024 passed by Commissioner (Appeals) Customs, CGST & Central Excise, Lucknow)

**Shri Ram Kumar Chaurasia,** **.....Appellant**
(S/o Shri Lal Bahadur Chaurasia
R/o Village - Savaya South Tola,
House No.601, Post - SavayaBhaya Sisva Bazar,
District - Maharajganj, U.P.)

*VERSUS*

**Commissioner of Customs (Preventive),**
**Lucknow** **....Respondent**
(3rd Floor, Apratakshya Kar Bhawan,
Vibhutikhand, Gomtinagar, Lucknow)

**APPEARANCE:**

Shri Dushyant Kumar, Consultant for the Appellant
Ms. Chitra Srivastava, Authorized Representative for the Respondent

**CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)**

**FINAL ORDER NO.- 70660/2025**

DATE OF HEARING : 31.07.2025
DATE OF PRONOUNCEMENT : 17.09.2025

The present appeal has been filed by the Appellant assailing the Order-in-Appeal No.278-CUS/APPL/LKO/2024 dated 24.04.2024 passed by the Commissioner (Appeals), Customs, CGST & Central Excise, Lucknow whereby he has upheld the order of the Deputy Commissioner, Customs (Prev.), Nautanwa confiscating poppy seeds and popcorn valued at Rs.4,80,000/- and Rs.4,32,000/- respectively under Section 111(b) & (d) of the Customs Act, 1962, and penalty of Rs.40,000/- under Section 112 of the Customs Act.

2. Briefly stated, the facts of the case are that on the information of DRI, Regional Unit, Gorakhpur, the local Customs Officers of Customs (Prev.) unit Nichlaul, seized poppy seeds and

popcorn valued at Rs.4,80,000/- and Rs.4,32,000/- respectively from the godown taken on rent by the Appellant. The Dy. Commissioner Customs (Preventive) Unit has confiscated goods under Section 111 of the Customs Act and also imposed penalty of Rs.40,000/- on the Appellant.

3. The Ld. Counsel for the Appellant submitted that the entire seizure of the poppy seeds and popcorn valued at Rs.4,80,000/- and Rs.4,32,000/- has been made on the basis of presumption that these goods have been imported from Nepal in contravention of provisions of Notification No.09/96-CUS(NT) dated 22.01.1996.

4. The Ld. Counsel further submitted that the godown taken on rent by the Appellant at Nichlaul is around 15 kms from Indo-Nepal boarder and there is no documentary evidence to indicate that the seized goods have been imported or transported from Nepal. It was also argued that the Revenue has seized the said poppy seeds and popcorn under apprehension that the same is of foreign origin (a product of Argentina) imported from Nepal through off-routes.

5. Sample of popcorn and poppy seeds were been drawn and sent to the National Food Laboratory, Ghaziabad for technical analysis and report. The said report dated 18.05.2023, both for popcorn and poppy seeds do not indicate that the goods are of foreign origin. Rather as per the report, the sample of popcorn was found fit conforming the standard laid down under Food Safety and Standard (Food products Standards and Food Additives) Regulation, 2011 but sample of poppy seeds was found to be of sub-standard quality.

6. It was further submitted by the learned Counsel that in case of town seizure of non- notified goods, onus is on the department to prove that goods are smuggled one and this onus has not been discharged by the Department. They have relied only on inscription (Argentina) printed on the bags which has been purchased from the local market by the Appellant to keep the popcorn. He also added that it has been vaguely shown by the Department that the goods were 11.28 Quintals of popcorn

and poppy seeds in some DCM Truck. Movement of truck or heavy vehicles require frequent checks by officers of SSB deployed heavily all along Indo-Nepal Border even if the same moves through off routes. The learned Counsel also argued that the popcorn is not prohibited/restricted goods and therefore absolute confiscation of popcorn is not justified. The Appellant had produced bill dated 25.02.2023 issued by M/s Ahmad Trading Company, Barabanki for purchase of 500 kg of poppy seeds.

7. The learned Departmental Authorized Representative justified the impugned order and prayed that the appeal filed by the Appellant, being devoid of any merits, may be dismissed.

8. Heard both the sides and perused the appeal records.

9. I find that popcorn and poppy seeds were seized by the Customs Officers on apprehension that the same have been brought illegally from Nepal in contravention of provision of Notification No.09/96-CUS(NT) Dated 22.01.1996.

10. I also find that the grounds for seizure of goods are as under:-

(i) The goods are of foreign origin.

(ii) The same have been brought from Nepal.

11. I find that the evidence of goods being of foreign origin is based on the printing on the bags "Product of Argentina" and there is no other evidence (documentary or oral). The Appellant has submitted that such bags are available all along Indo-Nepal Boarder and he bought these bags from the local market for bagging the popcorn. Hence, the printing on the bag does not appear to be a clinching evidence for being imported from third country, like Argentina. Further, as regards transportation of goods from Nepal, the Dy. Commissioner Customs (Preventive) has recorded in the impugned order that the same have been transported in DCM Vehicle, but he has not been able to quote the Registration number of DCM Vehicle. I also find that no efforts were made to record the statement of the driver of the

vehicle. Hence, there is no tangible evidence for movement of goods from Nepal.

12. I also find that popcorn is neither prohibited nor restricted and its movement is not subject to compliance of customs regulations. The report of National Food Laboratory dated 18.05.2023 also does not suggest anything about country of origin. The only evidences on record are that seized goods were kept in Bags printed with product of Argentina.

13. I therefore find that unless and until there is cogent and specific evidence of transportation from Nepal, the goods are not liable to confiscation under Notification No.09/96-CUS(NT) dated 22.01.1996.

14. In view of the above, I find that popcorn is not liable for confiscation but poppy seeds being a restricted item and reported to be of sub-standard, deserves confiscation under Customs Act. 1962. I, therefore, set aside the confiscation of popcorn. The penalty imposed under Section 112 of the Act is reduced to Rs.20,000/-. The appeal filed by the Appellant is partially allowed with consequential relief, if any, as per law.

(Order pronounced in open court on - **17.09.2025**)

**Sd/-**
**(P. K. CHOUDHARY)**
**MEMBER (JUDICIAL)**

*LKS*