CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. I

Customs Stay Application No.70036 of 2020
IN
Customs Appeal No.70050 of 2020-[SM]

(Arising out of Order-in-Appeal No.584-Cus/APPL/LKO/2019 dated 11/12/2019 passed by Commissioner (Appeals) Customs, GST & Central Excise, Lucknow)

Commissioner of Customs (Preventive), **.....Appellant**
(Lucknow)

VERSUS

Shri Shanti Biswas, **....Respondent**
(S/o Shri Haripad Biswas, R/o-Nrapen Barapath, Ambari, Guwahati, Assam)

APPEARANCE:

Shri B.K. Jain, Authorised Representative, for the Appellant
Shri Shubham Agarwal, Advocate for the Respondent

CORAM: **HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

MISC ORDER NO-70091 / 2020
&
FINAL ORDER NO-70241 / 2020

DATE OF HEARING : 28 February, 2020
DATE OF DECISION : 28 February, 2020

PER: ANIL G. SHAKKARWAR

Heard on Miscellaneous Application which is filed with a prayer to stay the operation of the impugned Order-in-Appeal vide which learned Commissioner (Appeals) has ordered for provisional release of Betel Nuts & Black Peppers since they are not prohibited goods under the Customs Act, 1962 and there was no evidence with revenue to establish that the same were smuggled into the country.

2. Learned Authorised Representative appearing for the revenue has made following submissions:-

i. Show cause notice is not issued and the matter is under investigation,
ii. Poppy Seeds were also seized along with the Betel Nuts & Black Peppers.
iii. Poppy Seeds is a restricted item for import into the Country under Notification No.27 (RE-2000)/1997-2002 dated 01.08.2000.
iv. Further, he relies on para-07 of the decision of Hon'ble Madras High Court in the case of M/s SLV Trading Company Vs Commissioner of Customs, (GR.-3), Chennai-II reported at 2019 (365) ELT 701 (Mad.).

3. Learned Counsel appearing for the respondent has submitted that the goods were being transported from Guwahati to Delhi through train and they were inspected at Lucknow and the goods were detained from the public transport like train and that Poppy Seeds were not belonging to them and only Black Pepper and Betel Nuts were belonging to them and that the goods were not intercepted at the National Border and the train was travelling within India and that Betel Nuts and Black Pepper are not notified, prohibited or restricted item under Section 123 of the Customs Act, 1962. Therefore, the reliance on the decision

of Hon'ble Madras High Court in the case of M/s SLV Trading (supra) in respect of gold is not applicable in respect of the goods in question.

4. With the consent of both the sides appeal itself was taken up for hearing. From perusal of appeal records, I note that revenue was aggrieved by the order of learned Commissioner (Appeals) through which he has allowed provisional release of Betel Nuts and Black Pepper. After hearing the learned A.R. appearing for the revenue and on perusal of record, I could not find any evidence to establish that the goods which were moved within the country, were smuggled in the country and therefore, I hold that it was high handedness on the part of revenue to have detained the said goods not released the same inspite of the order of learned Commissioner (Appeals). I dismissed the appeal filed by revenue. I further direct revenue to release Black Pepper and Betel Nuts to the respondents by **15 March, 2020**. Misc. Application is rejected as in-fructuous.

(Dictated and pronounced in open court)

(Anil G. Shakkarwar)
Member (Technical)

akp