

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH - COURT NO.2

Customs Appeal No.76541 of 2016

(Arising out of Order-in-Original No.CCEP/NER/15/2016 dated 19.07.2016 passed by
Commissioner of Customs (Preventie), NER, Shillong.)

Shri Debabrata Paul

(S/o Late Ranjit Paul, Bazarghat, Karnamadhu, P.S.Karimganj, Assam-788712.)

...Appellant

VERSUS

Commissioner of Customs (Preventive), NER, Shillong

.....Respondent

(Custom House, 110, M.G. Road, Shillong, Meghalaya-793001.)

WITH

Customs Appeal No.76542 of 2016

(Arising out of Order-in-Original No.CCEP/NER/15/2016 dated 19.07.2016 passed by
Commissioner of Customs (Preventie), NER, Shillong.)

Shri Pranab Nath

(S/o Late Madhusudan Nath, Bipin Paul Road, Karimganj Municipality Ward No.15,
Bik, P.S. Karimganj, Assam-788710.)

...Appellant

VERSUS

Commissioner of Customs (Preventive), NER, Shillong

.....Respondent

(Custom House, 110, M.G. Road, Shillong, Meghalaya-793001.)

AND

Customs Appeal No.76543 of 2016

(Arising out of Order-in-Original No.CCEP/NER/15/2016 dated 19.07.2016 passed by
Commissioner of Customs (Preventie), NER, Shillong.)

Shri Sanjib Paul

(S/o Shri Dipak Paul, Station Road, Near M/s. Ganga Bhandar, P.O. & P.S. And
District-Karimganj, Assam-788710.)

...Appellant

VERSUS

Commissioner of Customs (Preventive), NER, Shillong

.....Respondent

(Custom House, 110, M.G. Road, Shillong, Meghalaya-793001.)

APPEARANCE

Shri Tushar Dhar, Consultant for the Appellant (s)
Shri Faiz Ahmed, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)

FINAL ORDER NO. 76562-76564/2024

DATE OF HEARING : 01.08.2024
DATE OF DECISION : 01.08.2024

Per : R. MURALIDHAR :

In these Appeals 2341.850 gms. of Gold valued at Rs.62,99,576/- were seized on 29.09.2015 from the Appellants, since they were not carrying proper legal documents. After due process, the Gold was confiscated absolutely and penalty of Rs.2.00 Lakhs each was imposed on Shri Debabrata Paul, Shri Pranab Nath and Shri Kajal Saha and penalty of Rs.5.00 Lakhs was imposed on Shri Sanjib Paul.

2. Shri Kajal Saha is not in Appeal before us. The other three Appellants are before the Tribunal, being aggrieved by the impugned order.

3. The Ld.Consultant for the Appellants submits that the Appellants are coming from very poor financial background and have taken up the job of carrying the gold in the lure of some easy money. There was no intention on their part for undertaking any smuggling activity. He submits that the issue may be considered with a liberal and humane way to set aside the penalties.

4. The Ld.AR for the Department reiterates the findings of the lower authority.

5. After going through the case records, we find that the seized gold has already been confiscated absolutely. The Appellants in this case are mere carriers and no specific allegation has been made towards their involvement in the smuggling activity. Therefore, taking a liberal

approach we reduce the penalty to Rs.20,000/- each for Shri Debabrata Paul and Shri Pranab Nath and Rs.50,000/- for Shri Sanjib Paul.

6. The Ld.Consultant submits that Appellant Nos.1 & 2 have already paid Rs.15,000/- each and Appellant No.3 has paid Rs.37,500/-. The Adjudicating authority to verify this fact and once the Appellants pay the balance amount, it would be treated as full compliance of the Tribunal's order.

7. The Appeals filed by the Appellants are partly allowed in above terms.

(Dictated and pronounced in the open Court.)

Sd/

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/

(RAJEEV TANDON)
MEMBER (TECHNICAL)

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