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

REGIONAL BENCH - COURT NO.1

Customs Appeal No.75645 of 2021

(Arising out of Order-in-Appeal No.30/Pat/Cus/Appeal/2020-21 dated 08.06.2020 passed by Commissioner (Appeals) of Central GST & CX, Patna.)

Shri Ram Mohan Singh
(S/o. Late Chandrika Singh, At-Math Banwari, PO Bathna, PS-Pipra Kothi, East Champaran, Bihar.)

...Appellant

VERSUS

Commissioner of Customs (Prev.), Patna

.....Respondent

(C.R. Building(Annexe), Bir Chand Patel Path, Patna.)

APPEARANCE

Shri Prithwijit Sharma, Advocate for the Appellant (s)

Shri S.Chakraborty, Authorized Representative for the Revenue

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

FINAL ORDER NO. 76341/2025

DATE OF HEARING : 14.05.2025
DATE OF DECISION : 14.05.2025

Per : R. MURALIDHAR :

The goods which were being transported by Mahindra Pick Up Van bearing No.OR-01Q-8769 was intercepted on 28.07.2017 at 2.30 hrs. The consignment of Pepper was packed in 60 plastic bags weighing 1488 kgs. was found in the vehicle. The value was ascertained @ Rs.5,95,200/-. On the reasonable belief that the goods were of Nepal origin, the goods were seized and proceedings were initiated. The

Appellant has provided documentary evidence to the effect that the goods were procured from M/s. Kumar Trading Co., Matihari vide Bill No.09 dated 22.06.2017 and the same was produced before the Adjudicating authority. The Adjudicating authority after due process confiscated the goods and imposed redemption fine of Rs.3,50,000/-. He has also imposed a penalty of Rs.66,000/- against the present Appellant. Being aggrieved, the Appellant is before the Tribunal.

2. The Ld.Counsel appearing on behalf of the Appellant submits that black pepper is not a notified item and hence the onus to prove the foreign origin of the goods lies with the Department. The Department has not brought in any evidence to the effect that the goods were of Nepal origin. Secondly he submits that after the Appellant has given the details of purchase of the goods from M/s. Kumar Trading Co., Matihari vide Bill No.09 dated 22.06.2017, the statement of M/s. Kumar Trading Co. was recorded before the two independent witnesses wherein he has confirmed that he has sold 1488 kgs. of black pepper to M/s. Singh Enterprises (the present Appellant). Based on these submissions, he prays that the present Appeal may be allowed.

3. The Ld.AR for the Revenue reiterates the findings of the lower authorities.

4. We find that the goods in question are not notified and hence the onus to prove the foreign origin is on the Revenue. Except for mentioning in Show Cause Notice and the Order-in-Original that the goods are of Nepal origin, we do not find that any effort has been made or any evidence has been adduced by Revenue to the effect that the goods are of Nepal origin. Therefore on this ground itself the case fails.

5. Further, during the follow up action, the seller of the goods has confirmed that he has sold the goods to the Appellant. No further

verification or evidence has been brought in by the Revenue to the effect that the statement given by the seller of pepper is false.

6. In view of the foregoing we set aside the impugned order and allow the Appeal filed by the Appellant. Appellant would be eligible for consequential relief, if any, as per law.

(Dictated and pronounced in the open Court.)

Sd/
(RAJEEV TANDON)
MEMBER (TECHNICAL)

Sd/
(R. MURALIDHAR)
MEMBER (JUDICIAL)

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