IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.1

Customs Appeal No.75803 of 2021

(Arising out of Order-in-Appeal No.85-89/PAT/Cus/Appeal/2020-21 dated 26.02.2021 passed by Commissioner of CGST & Central Excise & Customs, Patna)

(1) Shri Akshay Khanna
(2305, LGF, Hudson Life, Delhi-110009)

Appellant

VERSUS

Commissioner of Customs (Preventive), Patna
[C.R.Building (Annexe), Bir Chand Patel Path, Patna]

Respondent

WITH

Customs Appeal No.75804 of 2021
(2) Shri Anil Bareja Vs. Commissioner of Customs (Preventive), Patna

Customs Appeal No.75805 of 2021
(3) Shri Rampal Vs. Commissioner of Customs (Preventive), Patna

Customs Appeal No.75806 of 2021
(4) Shri Khagen Sharma Vs. Commissioner of Customs (Preventive), Patna

Customs Appeal No.75807 of 2021
(5) Shri Sanjay Jain Vs. Commissioner of Customs (Preventive), Patna

APPERANCE :

Shri Prithwijit Sharma, Advocate for the Appellant Nos.(1) to (3)
Shri Ankit Chaturbedi, Advocate for the Appellant Nos. (4) & (5)

Shri S.Chakraborty, Authorized Representative for the Respondent

CORAM:
HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.77052-77056/2025

DATE OF HEARING : 23 JULY 2025
DATE OF DECISION : 23 JULY 2025

Per Ashok Jindal :

The appellants are in appeals against the impugned order wherein penalties of Rs.10.00 lakhs have been imposed on each of the appellants.

2. The facts of the case are that on 04.09.2018, acting upon specific information, a large quantity of alleged contraband goods of foreign origin was purportedly being transported from Dimapur to Delhi by Train No.15909, Awadh Assam Express in Parcel Van No.09839. The Preventive Team of Customs (Headquarters), Patna, proceeded towards Hajipur Railway Station. Upon arrival, the officers served a detention memo to the Station Manager, Parcel Officials, RPF Personnel and the train guard. Therefore, a search of the said parcel van was conducted in the presence of panchas, railway parcel officials and RPF staff. Later on, 165 gunny bags containing goods, such as, Black Pepper, undergarments, shoes, mobile phones, cosmetics, jeans etc. allegedly of foreign origin. It has been alleged in the proceedings that the appellants were involved in the smuggling for the said goods and thereafter, purportedly contravened the provisions of Sections 7,77,46 and 47 of the Customs Act, 1962 read with Section 3 (2) of the Foreign Trade (Development & Regulation) Act, 1992. On the basis of this, penalties have been imposed on the appellants.

3. It is the submission of the appellants that the Appellant No. (1), is the leaseholder of the parcel van, merely provided transportation services in accordance with his contractual obligations with Indian Railways and had no knowledge or control over the contents of the

consignment, therefore, cannot be held liable to be penalized. The Appellant No.(2) was employed only in an administrative capacity and had no role whatsoever in booking, handling, or inspecting the goods transported and hence, his implication in the present case is baseless and devoid of legal justification. The Appellant No.(3) was merely responsible for supervising unloading at the Delhi station and had no access to, or knowledge of, the nature or origin of the goods, therefore, no penalty can be imposed on the appellant. The Appellant Nos.(4) & (5) were merely discharging their duties of supervising the physical loading of packages onto the parcel van and had no role in verifying the nature, origin or ownership of the goods. Hence, no penalties can be imposed on the appellants.

4. On the other hand, the ld.A.R. for the Revenue, supported the impugned order.

5. Heard both the parties and considered the submissions.

6. We find that it is a fact on record that the appellants are the transporters of goods and on the basis of the documents given by the seller to the appellants, the consignments are booked, which were carrying the necessary documents for transportation of goods. In view of that, it is the duty of the Revenue to establish that the appellants were having knowledge about the fabricated documents or the consignment carrying are contravened goods. As the Revenue has failed to discharge their onus that the appellants were any knowledge with the parcel van that the consignments are of contravened goods of foreign origin. The said duty of revenue has failed to discharge. In that circumstances, all the allegations made against the appellants are only

assumption and presumption. In that circumstances, no penalties are imposable on the appellants. Accordingly, the penalties imposed on the appellants in the impugned order are set aside.

7. In the result, the appeals are allowed with consequential relief, if any.

(Operative part of the order was pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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