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

REGIONAL BENCH – COURT NO.2

Customs Appeal No. 75566 of 2022

(Arising out of Order-in-Appeal No. 56/PAT/CUS/APPEAL/2020-21 dated 26.11.2020 passed by Commissioner (Appeals), Customs, Central GST & Central Excise, Patna)

Shri Mohan Prasad
Prop. Of M/s. Shyam Trading Company
(Vill+P.O.-Kataha, P. S. Muffasil, Dist. East Champaran)

Appellant

VERSUS

Commr. of Customs (Preventive), Patna
(C. R. Building (Annexe) Bir Chand Patel Path, Patna-800001)

Respondent

APPEARANCE:

Shri Prithwijit Sharma, Advocate for the Appellant
Shri Tariq Suliaman, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE MR. K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.77435/2025

Date of Hearing : 18 August 2025
Date of Decision : 18 August 2025

ORDER [PER R. MURALIDHAR]

The goods which were being transported by Tata Magic Van bearing Regtn No. BR06-PB/2671 was intercepted on 20.06.2017 at 17.00 hrs. The consignment of Pepper weighing 995 kgs was found in the vehicle. The value was ascertained Rs.7,06,000/-. 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 transported by M/s. Shyam Trading Co, Katha, Mohan Prasad, proprietor of the firm submitted that the goods were purchased from Ganpati Traders, Marufganj. The Adjudicating authority after due process confiscated the goods and imposed redemption fine of Rs.1,94,000/-. He has also imposed a penalty of Rs.5,000/- 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. Ganpati Trading Co. None of the statements confirm that any illegal activity was carried out in respect of Nepalese origin goods. 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, even as the appellant has referred to Ganpati Trading Co. as the source of the goods, no follow up action has been initiated by the Department. 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.

(Operative part of the Order was pronounced in the open court.)

Sd/-	**Sd/-**
(K. Anpazhakan)	**(R. Muralidhar)**
Member (Technical)	**Member (Judicial)**

Pooja