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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75108 of 2020

(Arising out of Order-in-Appeal No.13-14 CUS(A)/GHY/2020 dated 05.02.2020 passed by Commissioner of Customs(Prev), Shillong)

R.Lalmawizuali **: Appellant**
Kahrawt, Thlerpui, Taitesena Section,Champai,
Mizoram-796321.

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
North Eastern Region, Shillong,
110, Mahatma Gandhi Road, NER,
Shillong-793001, Meghalaya.

With

Customs Appeal No. 75109 of 2020

MD Samim Uddin **: Appellant**
Village Kunapara, P.O.-Umarpur,
P.S.-Badarpur, Dist.-Karimganj, Assam-788806.

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
North Eastern Region, Shillong,
110, Mahatma Gandhi Road, NER,
Shillong-793001, Meghalaya.

APPEARANCE:

Shri N.Chowdhury, Advocate for the Appellant

Shri T.Sulaiman, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO. 77678-77679/ 2025

DATE OF HEARING :11.11.2025

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Order : [Per Shri Ashok Jindal]

Both the appeals are having common issue and arising out of a common order therefore, both are disposed by a common order.

2. The facts of the case are that upon intelligence the DRI, Guwahati Regional Unit, recovered 500 Gunny Bags of Betel Nuts which contained 40,000kgs. of Betel Nut which was transported through Kanchenjunga Express and was allegedly assumed to be goods brought from Myanmar through Indo-Myanmar Border and on the reasonable belief that the goods were being smuggled, the same were accordingly seized under Section 110 of the Customs Act, 1962 vide DRI Seizure Case No. 27/CL/IMP/Betel Nut/DRI GAU/2017-18 dated 03.02.2018.

3. Thereafter, samples were drawn and no document was found accompanied with goods, the same were unloaded from train at Guwahati Railway Station and goods were thereby warehoused in a private godown at Sonkuchi Path, Beherbari, Guwahati. Subsequently, in course of investigation, the name of the present appellants cropped up on the basis of document used for booking the said consignment of Betel Nuts as forwarded by the Railway Authorities and accordingly, Summons were issued appellants. Their statements were recorded. The appellant No. 1 stated that she has nothing to say about the seized goods and had no idea about the seized consignment and in subsequent statement, she reiterated her stand. Similarly, the appellant No. 2 also denied having any relation with the seized goods.

3. Thereafter samples were drawn and sent to Arecanut Research Development Foundation (in

short 'ARDF'), Karnataka to determine the country of origin of Betel Nut and the report confirmed that the goods are of Indonesian Origin. And it was also found that goods are not suitable for human consumption as per Foods Safety and Standard Regulation.

4. On the basis of said report, a Show Cause Notice was issued to the appellants for absolute confiscation of the above goods and for imposition of penalty.

5. As appellants did not claim the ownership of the goods therefore, goods were absolutely confiscated and penalty on both the appellants were imposed of Rs. 4,80,000/ each.

6. Aggrieved from the said order of imposition of penalty on the appellants, the appellants are before me.

7. The Ld. Counsel for the appellants submits that as goods are not the notified goods therefore, penalty cannot be imposed upon the appellants under Section 112 of the Customs Act, 1962.

8. On the other hand, the Ld. Authorized Representative supported the impugned order and submitted that as it has been proved that the goods has been sent by the appellants without any documents and as per the report of ARDF the goods are of foreign origin therefore, Revenue has discharged their onus and further appellants have not claim the ownership of the goods which creates doubt against the appellants. Therefore, penalty has been rightly imposed upon the appellants.

9. Heard the parties. Considered the submissions.

10. I find that in this case although the goods are not notified goods but Revenue on the basis of ARDF report has been able to show that these goods are of Indonesian Origin and the appellant found to be owner of the said goods who could not produce any document in support of their claim. Moreover, they have not claimed the ownership of the goods which creates doubts on the bonafide of the appellants. Therefore, the appellants are liable to be penalised.

11. Considering the fact that goods have already been absolutely confiscated, in that circumstances penalty of Rs. 4,80,000/- each imposed on the appellants are highly excessive thereby, the same are reduce to Rs. 50,000/- each. With these terms appeals are disposed off.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

RG