

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

REGIONAL BENCH - COURT NO.2

Customs Appeal No.79423 of 2018

(Arising out of Order-in-Appeal No.122-123/Pat/Cus/Appeal/2018 dated 10.09.2018 passed by Commissioner(Appeals) of Central GST & Central Excise, Patna.)

Shri Anil Kumar

(S/o.-Sri Rajeshwar Sharma, Prop. of M/s.Sri Laxmi Textile Shivpuri, Naga Road, Ward No.22, P.S. Raxaul, Dist.East Champaran, Bihar.)

...Appellant

VERSUS

Commissioner of Customs (Prev.), Patna

.....Respondent

(2nd Floor, C.R.Building (ANNEXE), Bir Chand Patel Path, Patna-800001., Bihar.)

WITH

Customs Appeal No.79467 of 2018

(Arising out of Order-in-Appeal No.122-123/Pat/Cus/Appeal/2018 dated 10.09.2018 passed by Commissioner(Appeals) of Central GST & Central Excise, Patna.)

Shri Haris Chandra Singh

(S/o.-Late Babu Lal Singh, Prop. of M/s.Century Texofin Pvt.Ltd., Pankaj Chowk, Raxaul, Dist.East Champaran, Bihar.)

...Appellant

VERSUS

Commissioner of Customs (Prev.), Patna

.....Respondent

(2nd Floor, C.R.Building (ANNEXE), Bir Chand Patel Path, Patna-800001., Bihar.)

APPEARANCE

Ms. Sweety Jha, Advocate for the Appellant (s)
Shri Faiz Ahmed, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)

FINAL ORDER NO. 77875-77876/2025

DATE OF HEARING : 08.12.2025

DATE OF DECISION : 08.12.2025

RAJEEV TANDON :

The facts of the present appeal are interesting and amazing. In short the Revenue seized a total of 212 bundles of clothes (126 and 86 bundles from the appellant on 01.09.2016 *en route* to Sunali, when the two trucks carting them were somewhere around Jagdishpur moving towards Bettiah. It is alleged that the goods were being transported for illegal export to Nepal. Interestingly the border distance from Jagdishpur is approximately said to be over 200 kms. It is noticed from records that merely on the basis of certain statements recorded by the Revenue from the drivers of the two trucks, that the goods were meant for export to Nepal, the respondent initiated the act of seizure in the matter. There is nothing substantive on record to answer the question of discharge of onus cast upon the authorities under Section 110 of the Customs Act. Interestingly, the goods were also not seized within the notified Customs area under Section 7 or Section 8 of the Customs Act. It is bewildering as to why the Revenue took this strong an action when they clearly admit that the goods were of Indian Origin and were well within Indian territory. Merely on the basis of certain statements so recorded, in absence of any evidence to prove their point, no seizure of Indian origin goods can be effected. It is also borne from records that the appellant at the time of seizure had produced the purchase invoices along with Suvidha forms dated 31.08.2016, in respect of the goods so being procured and carted in order to establish their bona fide purchase of Indian origin goods. This upon verification was found to be correct and said goods procured on 60-90 days credit basis with part payments having been made.

2. The appellant has submitted that post seizure the goods seized and the two trucks were provisionally released to them against a bond and security

deposit. The appellant thus prays for setting aside of the order of confiscation and imposition of penalties on the two appellants.

3. Heard learned AR for the Revenue, who reiterates the findings that the appellant had no IEC code to enable export and therefore supports the order.

4. Having gone through the factual matrix, I find this to be a case of utter misuse of powers vested in the authorities. Mere presumption that the goods were meant for export to Nepal through other than the specified routes cannot be a valid reason to uphold the seizure in the absence of any other corroborative evidence to the said effect. A solitary statement of the accused cannot be the basis to fasten penal and other liabilities on the appellant under the statute and hold the seized goods to be "offending" in nature. When the goods have not been carted into specified Customs area and are interdicted far away from the border areas, they cannot be held as offending goods liable for confiscation.

5. There is not even a shred of evidence on record, that could lead the authorities below to even suggest a semblance of a reasonable belief for carrying out the act of seizure. The onus cast upon under Section 110 is not discharged in the very least. Question of non possession of any IEC cannot be a sustainable ground to effectuate the seizure when the goods were found to be of Indian origin, legitimately procured, transiting through Indian territory and quite afar from the border areas. The impugned act of seizure dated 01.09.2016 is in utter violation of law and cannot be sustained even for a minute any further. Under the circumstances the impugned order is set aside forthwith and the authorities are severely castigated for utter misuse of the powers vested in them and the legal provisions. The department needs to ensure that such instances of harassment to the trade do not recur. Even on the face of it, it is evident that the invoices indicated the destination of the

seized goods as Sunoli (a border town well within Indian territory). No question would thus arise, to even momentarily harbor a doubt about the final place of dispatch of the seized goods. Such coercive action of the department thus needs the strongest form of condemnation, as no cross border movement of goods is established from facts on record. As the impugned seizure in the matter is itself invalidated and found to be illegal, all consequential action arising out of such illegality is also not sustainable in the eyes of law and is thus bound to fail.

6. The order of the lower authority is thus set aside and the appeal is allowed with consequential relief as per law.

(Dictated and pronounced in the open Court.)

Sd/
(RAJEEV TANDON)
MEMBER (TECHNICAL)

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