

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

REGIONAL BENCH – COURT NO. 1

**Customs Appeal No. 75772 & 75773 of 2021**

(Arising out of Order-in-Appeal No.Kol/Cus/Ccp/Akr/573-574/2021 dated 26.07.2021 passed by Commissioner of Customs(Prev), Kolkata)

**Shri Sabir Rahman**

**: Appellant**

Prop.Crown Enterprise, Dag No. 791, Topatli Village Sonpur  
Mauza Demoria, PS.Khetri Topatoli GP,Kamrup (M) Assam-  
782403.

**VERSUS**

**Commissioner of Customs(Preventive),**

**: Respondent**

15/1, Strand Road 3<sup>rd</sup> Floor, Customs House,  
Kolkata-700 001.

**With**

**Shri Sharad Arora**

**: Appellant**

Prop. Shyam Traders, Ashok Nagar, D-58, 16E, Sagra, Varanasi-  
221010.

**VERSUS**

**Commissioner of Customs(Preventive),**

**: Respondent**

15/1, Strand Road 3<sup>rd</sup> Floor, Customs House,  
Kolkata-700 001.

**APPEARANCE:**

Shri Prithwjit Sharma, Advocate for the Appellant

Shri S.Chakrovorty, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)**

**HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 77950-77951/ 2025**

DATE OF HEARING :11.12.2025

DATE OF DECISION:11.12.2025

**Order : [Per Shri Ashok Jindal]**

The appellants are in appeal against the impugned order.

2. The facts of the case are that a 14 wheeler truck bearing registration number MP-09-HH-9683 was intercepted on 16.09.2018 which was en-route from Assam to Uttar Pradesh. Upon examination, it

was found that the vehicle was carrying 24.64 metric tones of betel nuts. The authorities alleged that the said betel nuts were illegally imported into India through unauthorized routes along the Indo-Myanmar Border in the State of Mizoram, in violation of the provisions of the Customs Act, 1962. Consequently, the goods were seized on the purported reasonable belief that they were smuggled items liable to confiscation under Section 111(b) and (d) of the said Act.

3. Thereafter, investigations revealed that the goods were loaded by the transporter M/s Shri Krishna Carriers, and the consignment was issued by Shri Sabir Rahman, one of the appellant, Proprietor of M/s. Crown Enterprise, in favour of M/s. Shree Shyam Traders, Proprietor Shri Sharad Arora(Co-Appellant). Based on the findings, the Adjudicating Authority absolutely confiscate the seized goods and penalty on the appellants have been imposed 10,000/- each.

4. Aggrieved from the imposition of penalty the appellant are in appeal before us.

5. The Ld. Counsel for the appellant submits that Appellant No. 1 is a bonafide trader engaged in the lawful business within the territory of India and goods in question were purchased from domestic sources within the State of Assam and were being lawfully transported to the appellant no. 2 under valid documents. Hence, there was no illegal transaction or transportation of goods.

6. It is his submission that allegation of illegal importation through the Indo-Myanmar border is based merely on assumption and conjecture without any tangible evidence such as foreign markings,

country-of-origin labels or corroborative statements are missing.

7. Therefore, entire case is based on assumptions and presumptions.

8. There is no nexus established between the appellants and any alleged smuggling syndicate nor any material been produced to show that the appellants had knowledge or involvement in the purported illegal import of betel nuts.

9. In view of that no penalties is imposable on the appellants.

10. On the other hand Ld. Authorized Representative supported the impugned order.

11. Heard the parties. Considered the submissions.

12. We find that it is a case of absolute confiscation of betel nuts which were intercepted while en-routed from Assam to Uttar Pradesh on the pretext that the said betel nuts have been enrouted along with Indo -Myanmar border in the states of Mizoram through Indo-Myanmar border. But it is only a presumption but no evidence has been brought on record by the Revenue that the said goods were smuggled one. As the betel nuts is not notified item under Section 123 of the Customs Act, 1962 the onus cast on the Revenue to prove that the goods i.e. the betel nuts in question are smuggled one which Revenue has failed to do so.

13. In that circumstances, we hold that no penalty is imposable on the appellants. Accordingly, penalty

imposed on the appellants are set aside. In results appeals are allowed with consequential relief, if any.

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

**(ASHOK JINDAL)**  
MEMBER (JUDICIAL)

**(K. ANPAZHAKAN)**  
MEMBER (TECHNICAL)

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