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

REGIONAL BENCH – COURT NO.2

Customs Appeal No.71432 of 2013

(Arising out of Order-in-Original No.01/CUS/CC/DRI/12 dated 18.01.2012 (Date of issue 20.01.2012) passed by Commissioner of Customs, Patna)

Shri Paramjeet Singh
(S/O-Sri Mehma Singh, R/O-302, Vishnupuri Colony Annex, P.S.-Bhawarkuan, District-Indore, Madhya Pradesh)

Appellant

VERSUS

Commr. of Customs, Patna
(Central Revenue Building, Birchand Patel Path, Patna-800001)

Respondent

<u>APPEARANCE :</u>

Mr. Swarbhanu Bhattacharya, Advocate & MS. Daraksha F. Khan, Advocate for the Appellant
Mr. S. Chakraborty, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE MR. RAJEEV TANDON, MEMBER (TECHNICAL)

FINAL ORDER NO.75383/2026

Date of Hearing : 10th March 2026
Date of Pronouncement : 13.03.2026

<u>PER R. MURALIDHAR</u>

Being aggrieved by the impugned order OIO No. 01/CUS/CC/DRI/12 dated 18-01-2012, wherein the vehicle number MP-09KC-9266 has been confiscated and an option to redeem the same on payment of Rs. 5,00,000/- lakhs has been given and personal penalty of Rs. 5,00,000/- has been imposed, the appellant is before the Tribunal.

2. The learned Counsel submits that the truck number BR-IG/2278 carrying 1670 kgs of Betel Nuts was intercepted and seized on 02.10.2009. On verification, the officials found that the Number Plate

BR-IG/2278 was a fake number and the original Number Plate bearing registration number MP-09KC-9266 was found within the vehicle. Along with many other noticees, a notice was also issued to the appellant on the ground that he was the owner of this vehicle which was transporting the smuggled Betel Nuts. The show-cause notice proposed confiscation of the vehicle and imposition of penalty on the appellant under section 112A of the Customs Act, 1962. After due process, the Adjudicating Authority ordered for confiscation of the vehicle giving an option to redeem the same on payment of Redemption Fine of Rs. 5,00,000/-. He also imposed penalty of Rs. 5,00,000/- under Section 112 (1) of the Customs Act, 1962.

3. The Learned Advocate submits that the appellant was not the owner of the vehicle as on the date (02.10.2009) of the seizure. He submits documentary evidence in the form of the Notarized copy Finance-Cum-Sale Agreement dated 13.08.2009, in Hindi Language. As per this Agreement, the appellant has sold the vehicle Number MP-09KC-9266 to Shri Kishore Gaur. He also submits copy of the Summary of this Agreement in English language. In view of this Agreement, the Learned Counsel submits that no case is made out against the appellant Shri Paramjit Singh who was neither responsible for the alleged movement of smuggled Betel Nuts on 2/10/2009 nor for changing of the number plate in the vehicle. He further submits that no proper investigation was made to ascertain the ownership of the truck by the appellant, inspite of the appellant bringing in this point before the Adjudicating authority. He further submits that since the appellant is not the owner of the vehicle, the appellant is not seeking to set aside the confiscation order. He is only litigating the penalty imposed on him.

4. The learned Counsel also submits that while the goods have been confiscated absolutely and penalties have been imposed in respect of a total of 30 persons, to the best of his knowledge, no other person has filed any appeal before the Tribunal. Only the present appellant being genuinely aggrieved by the penalty imposed on him, is before the

Tribunal. In view of these submissions, he prays that the appeal may be allowed by setting aside the penalty imposed.

5. The learned AR submits that the role of the appellant has been discussed in detail by the Adjudicating Authority. He draws our attention to Para 1.42 of the OIO, wherein it is clearly recorded that the appellant (Noticee number 12) did not cooperate during the investigation and was repeatedly ignoring the summons. After the truck was seized, he took more than two months to appear before the Adjudicating Authority. Only after about two months, for the first time he brought in the argument about the vehicle being sold in August 2009, which is clearly an afterthought.

6. The learned AR also submits that in the Writ Petition before the High Court, the appellant has claimed the ownership of the vehicle. This shows that the real owner of the vehicle is appellant only. In view of these submissions, he prays that the appeal may be dismissed.

7. Heard both the sides. We have gone through the appeal papers and documentary evidence placed before us.

8. We find that the appellant has enclosed one Finance-Cum-Sale agreement towards vehicle number MP-09KC-9266 (in Hindi language) has been produced by the appellant. In this agreement, said to be made on 13.08.2009, it shows that the appellant Shri Pramjeet Singh is seller and one Kishore Gaur is buyer of the vehicle. The first two pages of this agreement (in Hindi) are scanned below:-

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भारतीय गैर न्यायिक

एक सौ रुपये Rs. 100 ONE HUNDRED RUPEES

सत्यमेव जयते

भारत INDIA

INDIA NON JUDICIAL

NOTARY M. P. STATE (INDIA)

B. G. MALVIYA NOTARY Distt. Court, INDORE

ATTESTED

B. G. MALVIYA NOTARY Distt. Court, INDORE

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मध्य प्रदेश MADHYA PRADESH

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फायनेंस सहित मारवाही ट्रक क्रमांक एमपी–09–केसी–9266

का क्रय–विक्रय अनुबंध लेख

20348109

13/8/09

ATTESTED

यह अनुबन्ध लेख परस्पर लिख देने वाले :–

परमजीतसिंह पिता श्री मेहमासिंह निवासी 302 विष्णुपुरी कालोनी एनेक्स इन्दौर (म0प्र0)	बेचवाल
एवं	
श्री किशोर गौर पिता श्री पन्नालाल गौर निवासी म0नं0 6 सूरज नगर टेकरी, मयूर हास्पीटल केपीछे, इन्दौर (म0प्र0)	खरीददार

Paramjit Singh

बेचवाल एवं खरीददार के मध्य यह अनुबंध लेख निम्न शर्तों एवं दायित्वों के तहत निम्नानुसार निष्पादित किया जाता है ऐसा कि :–

(1) यहकि, मारवाही ट्रक टाटा 2515 (10 टायर) माडल 2003 जिसका रजि0नंबर एमपी–09–केसी–9266 होकर चेचिस नं0 426 021 एल–डबल्यू–जेड–733 472 एंजिन नं0 बी–591 451 030 के – 622 95403 है यह बेचवाल के मालकी की है तथा बेचवाल के नाम पर आरटीओ इन्दौर में रजिस्टर्ड है तथा बेचवाल के नाम से स्वीकृत स्थायी नेशनल परमिट क्रमांक से आच्छादित है तथा परमिट में दर्शाये अनुसार प्रान्तों में मारवाही ट्रक स्वरूप संचालित की जाती है ।

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(2) यहकि, उक्त गाड़ी पर बेचवाल ने श्रीराम ट्रांसपोर्ट फायनेंस कंपनी लिमि. इन्दौर से फायनेंस करवा कर ऋण प्राप्त किया हुआ है जिस

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बाबद बेचवाल ने फायनेंसर कंपनी के पक्ष में विधिवत ऋण दस्तावेज
निष्पादित कर दिये हैं तथा फायनेंसर कंपनी का नाम आरटीओ में उक्त
गाड़ी की संबंधित फाइल एवं रजिस्ट्रेशन में अंकित करा दिया है ।

(3) यहकि, फायनेंसर का संपूर्ण ऋण मय ब्याज बेचवाल ने फायनेंसर
कंपनी को माहवारी किश्तों में रु0 23000-00 प्रति माह प्रमाणे चुकाने
का अनुबंध किया है । फायनेंसर को हर माह की तारीख 26 को किश्त
देय होती है । फायनेंसर कंपनी को दिनांक 26-7-2009 तक की किश्तें
बेचवाल ने जमा करा दी है । कोई किश्त ओव्हर ड्यू नहीं है । दिनांक
26-8-2009 से फायनेंसर की 18 किश्तें देना शेष हैं ।

(4) यहकि, उक्त मारवाही ट्रक बेचवाल के मालकी की होकर
बेचवाल को विक्रय हस्तान्तर करने का पूर्ण अधिकार है ।

(5) यहकि, उक्त मारवाही ट्रक मय परमिट के अधिकारों तथा संबंधित
कागजातों सहित बेचवाल विक्रय करने के इच्छुक होकर खरीददार उक्त वर्णित
मारवाही ट्रक मय परमिट के अधिकारों तथा संबंधित कागजातों सहित तथा
फायनेंसर को दिनांक 26-8-2009 से देय 18 किश्तों के ऋण के बोझ
सहित (यानि फायनेंसर को दिनांक 26-8-2009 से देय 18 किश्तें निर्धारित
माहवारी किश्त अनुसार बेचवाल की ओर से खरीददार ही जमा करावें इस
शर्त पर) क्रय करने के इच्छुक है जो बेचवाल को मान्य है अतः उक्त शर्त स्वीकार
करते हुए बेचवाल ने उक्त मारवाही ट्रक मय परमिट के अधिकारों व संबंधित
कागजातों सहित तथा फायनेंसर को देय 18 किश्तों के ऋण के बोझ सहित
तथा इसके अलावा रुपये 5,00,000-00 (पांच लाख रुपये) अतिरिक्त कीमत
देने की शर्त पर खरीददार को विक्रय करने का अनुबंध किया है जो खरीददार
को मान्य है ।

(6) यहकि, अनुबंध अनुसार दिनांक 26-8-2009 से फायनेंसर को देय
18 किश्तें निर्धारित माहवारी किश्त रु0 23000-00 प्रति माह प्रमाणे
चुकाने की पूर्ण जिम्मेदारी खरीददार ने स्वयं पर ली है तथा खरीददार ही
चुकावेंगे ऐसा करार किया है जो खरीददार को मान्य है अतः फायनेंसर को
देय 18 किश्तों की राशि की अदायगी हेतु बेचवाल ने खरीददार की ओर
ट्रांसफर कर दी है । इसके अलावा रुपये 5,00,000-00 (रुपये पांच लाख)
अतिरिक्त कीमत जो खरीददार ने बेचवाल को देना स्वीकार किया है उस
पेटे रुपये 1,00,000-00 (एक लाख रुपये) खरीददार ने बेचवाल को आज
दिनांक 12-8-2009 को नगद दिये हैं जिनकी प्राप्ति बेचवाल इस लेख
द्वारा स्वीकार करते हैं । शेष रही राशि रु0 4,00,000-00 जो बेचवाल
को खरीददार से लेना शेष रहे हैं उस बाबद दोनों पक्षों में यह करार हुआ
है कि उक्त शेष राशि में से रुपये 2,00,000-00(रुपये दो लाख) खरीददार
दिनांक 12-8-2009 से दो माह की अवधि में यानी दिनांक 12-10-2009
को बिना ब्याज बेचवाल को देंगे तथा रुपये 2,00,000-00 (रुपये दो लाख)
खरीददार दिनांक 12-8-2009 से चार माह की अवधि में यानी दिनांक
12-12-2009 को बेचवालको बिना ब्याज के देंगे जो बेचवाल को मान्य है ।

(7) यहकि, उक्त ट्रक की कीमत का शेष रुपया खरीददार द्वारा बेचवाल
को देने पर बेचवाल रुपया प्राप्ति की रसीद इसी लेख पर लिख देंगे । तथा
रु0 4,00,000-00 खरीददार द्वारा बेचवाल को देने पर बेचवाल नया विक्रय
अनुबंध लेख खरीददार के नाम से लिख देंगे ।

Paramjit Singh

Attested
B. G. MALVIYA
NOTARY
Distt. Court, INDORE

9. On going through the Para 1.42 of the OIO, we observe that indeed the appellant Shri Pramjeet Singh (Noticee Number 12) has sent a letter to the Revenue officials stating that he has sold the truck to Shri Kishore Gaur. It is also on record that the appellant has claimed the ownership in the Writ Petition before the High Court of Patna. Since the appellant has stated that the vehicle has been sold to Kishore Gaur, a query was raised on the AR as to what further action was taken to

verify this claim. The Learned AR takes us through the Para 1.43 and Para 1.44 of the OIO. While at Para 1.43, it is recorded that Shri Kishore Gaur was avoiding taking the summons issued by the department, Para 1.44 clarifies that he has recorded a statement under Section 14 before the Assistant Commissioner (Preventive). The details of Para 1.44 is reproduced below:-

> *1.44 Assistant Commissioner (Prev.), Office of the Commissioner of Customs & Central Excise, Manik Bagh Palace, Indore (M.P) vide his letter C.No. IV(16)20/2009/Prev/20965 dated 10.06.2010 informed that address verification of Kishore Gaur has been conducted and a Panchnama has been drawn on the given address and Statement of Sri Kishore Gaur was recorded under Section 14 of the Central Excise Act, 1944. Sri Kishore Gaur inter alia stated in his statement:*
>
> - *that he is the resident of House No.06, Suraj Nagar, Behind Mayur Hospital, Indore(M.P);*
> - *that he has been working as driver and transport agent since twenty five years;*
> - *that Sri Paramjeet Singh is the owner of truck No. MP-09KC/9266 and he has deployed a driver namely Dinesh on the said truck;*
> - *that he has hired the truck No. MP-09KC/9266 from Sri Paramjeet Singh on the monthly rent of Rs.50,000/-;*
> - *that he has sent the said truck loaded with Glucose bottles to Patna;*
> - *that on being asked about the owner of the said goods, he has not given a satisfactory answer.*
>
> *It is observed that Sri Kishore Gaur (Noticee 29) hired the truck having registration number MP-09KC/9266 from Sri Paramjeet Singh on monthly rental basis. It needs to mention here that truck bearing Regn. No. MP-09KC/9266 was loaded with 16705 kgs. of betel nuts of third*

country origin and the said truck was affixed with fake registration plate.

10. From the above statement, we gather that Shri Kishore Gaur has not claimed the ownership of the vehicle. However, he has stated that he has taken the truck on lease from the appellant Shri Pramjeet Singh on a monthly rent of Rs. 50,000/-. He has also confirmed that he got the the truck loaded with glucose bottles for delivery at Patna.

11. From the above question and answer recorded from Shri Kishore Gaur, it is clear that the truck was being handled by him for the transportation purposes. Nowhere has he held that the actual control towards loading, unloading and transportation, etc. was being monitored by the appellant Shri Paramjit Singh.

12. From the above factual details, there emerges the following contrasting details:-

(a) The appellant has brought in documents showing that this has been sold to Sri Kishore Gaur on 13.08.2009. In respect of the Writ Petition filed by the appellant claiming ownership of the vehicle, the learned Counsel submits that since the full value of the consideration was not met by the buyer, Shri Kishore Gaur, the appellant has taken this stand as the owner before the High Court. It is further submitted that since there were some more amounts due to the finance company, the actual registration could not be transferred to the Shri Kishore Gaur who was actually operating the truck for all practical purposes.

(b) Shri Kishore Gaur has stated that he has taken the vehicle of on monthly rent of Rs. 50,000/-, but did not state that he is the owner of the truck

13. In any view of the matter, the factual details show that the actual control of the vehicle remained with Kishore Gaur. The activities of loading, unloading, transportation etc., have been undertaken only by Shri Kishore Gaur. He also has not implicated the appellant in any way.

Even if we consider the Adjudicating Authority's argument that the agreement produced is an afterthought document, we find that no effort has been made by the Revenue to check the veracity of this document. The queries put to Shri Kishore Gaur are not exhaustive so as to bring in any corroborative evidence to the effect that Shri Paramjit Singh was responsible for the transportation of the alleged smuggled goods, or he was instrumental in changing the number plates of the trucks.

14. After giving due consideration to the above factual details, we do not find that any effective case has been made out against the appellant Shri Paramjit Singh to impose penalty under section 112 (1). Accordingly, we set aside the penalty imposed on him.

15. Since the appellant has claimed that he is not the owner of the vehicle by producing the documents to the effect that the same stands sold to Shri Kishore Gaur on 2/10/2009 and the Ld Cousel has confirmed that they are agitating only the penalty imposed on the appellant, we are not interfering with the confiscation order in respect of this vehicle.

16. The appeal stands partly allowed thus.

(Pronounced in the open court on 13.03.2026.)

Sd/-
(R. Muralidhar)
Member (Judicial)

Sd/-
(Rajeev Tandon)
Member (Technical)

Pooja