

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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75945 of 2022

(Arising out of Order-in-Original No. CCP/NER/40/2021 dated 01.12.2021 passed by the Commissioner of Customs (Preventive) North Eastern Region 110 MG Road, Shillong, Meghalaya -793001)

M/s. Shri Pawan Kumar

: Appellant

Son of Lakhindra Ray
Village Baksama, P.O. Baksama
P.S. Gorual Baksawan, Dist. Vaishali, Bihar-844122

VERSUS

Commissioner of Customs (Preventive)

: Respondent

North Eastern Region, Shillong
110, Mahatma Gandhi Road, NER,
Shillong- 793001 Meghalaya

APPEARANCE:

Shri Prithwjit Sharma, Advocate for the Appellant

Shri S. Chakravorty, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

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

FINAL ORDER NO. 75778/2026

DATE OF HEARING / DECISION: 17.06.2026

Order: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order wherein the absolute confiscation of Areca Nuts imported by the appellant has been confirmed and penalty of Rs.6,35,000/- has also been imposed on the appellant under Section 112(b) of the Customs Act, 1962.

2. The facts of the case are that on 19.06.2020, at around 06:00 hrs, information was received from the personnel of the 5th Rifle, Assam Rifles, Kashiram Basti, Dimapur to the effect that they

suspected that areca nuts of foreign origin are being stored in one-godown-at-Oriental Colony, Dimapur. Immediately, a team of Customs officers of Customs Preventive Force, Dimapur headed by the Superintendent (Anti Smuggling) (Custom officers hereinafter) rushed to the spot. On reaching Oriental Colony the Assam Rifles personnel led the Customs officers and two independent witnesses to the godown premises. The Customs officers were met by the Assam Rifles party in-charge and one Nagaland Police Personnel. The Assam Rifles party in-charge informed that the godown was detected by his troops early in the morning and that there were 1550 bags of areca nuts in the godown. One Shri Lalan Kumar, S/o Rampravesh Singh, Ward-05, Rajapakar, Dhelphorba Chauk Rajapakar, Vaishali, Bihar-84412 was identified as the chowkidar/caretaker of the godown. The Customs officers counted and weighed the bags and it was found that there were 1550 bags of different types containing 91,000 kgs of areca nuts. Foreign language inscription on some of the bags were seen. Representative samples were collected by cutting opened the bags of different types of areca nuts from the stacks in presence of the two independent witnesses and in presence of Assam Rifles personnel. The godown was then sealed and a notice was pasted on the door. Shri Lalan was asked to accompany the Custom officers to the Customs Divisional Office. Khermahai, Dimapur for further investigation.

3. On preliminary examination of the recovered areca nuts, the Customs officers have reasons to believe that the recovered goods were of foreign

origin and have been illegally brought into India through routes not notified under Section 7(1)(c) of the Customs Act, 1962 and in contravention of the provision of Section 11 & 46 of the Act read with para 3 & 4 of the General Notes to Import Policy of Foreign Trade Policy 2015-20 of the Foreign Trade (Development & Regulation) Act, 1992, thereby, rendering the goods liable to confiscation under Section 111 (b) & (d) of the Customs Act, 1962. Therefore, the 91,000 kgs areca nuts in 1550 bags valued at Rs. 63,45,000/- (Rupees sixty-three lakh and forty-five thousand) were seized under Section 110 of the Customs Act, 1962. The recovered goods were listed in an Inventory and a case was booked under the Customs Act, 1962 vide Seizure Case No. 03/CL/CUS/IMP/DCPF/DMR/20-21 dated 19.06.20. Copy of the inventory was given to Mr. Lalan Kumar. Panchnama dated 19.06.2020 to this effect was also drawn. The seized goods were kept in the sealed godown and an entry was made in the godown register vide GDR No. 03/20-21 dated 19.06.2020.

4. Shri Lalan Kumar, from whose possession the areca nuts were seized, was apprehended on 19.06.2020 by the Assam Rifles and handed over to the Customs Officers on the same day. He was arrested on 19.06.2020 under Section 104 of the Customs Act, 1962 by the Customs officers at Custom Division office, Dimapur. Subsequently, he was offered an opportunity by the competent authority to be released on bail by depositing a surety bond of Rs. 30,000/- (Rupees thirty thousand) which he accepted. Shri Lalan Kumar was released on bail after payment & executing bail bond surety amount of Rs. 30,000/- (Rupees thirty thousand) on 19.06.2020 and the amount was deposited on

20.06.2020 at SBI, Main Branch, Dimapur vide TR 6 challan No. 10/20-21 dated 20.06.2020.

5. Voluntary statement of Shri Lalan Kumar, S/o, Rampravesh Singh, Ward-05, Rajapakar, Dhelphorba Chauk Rajapakar, Vaishali, Bihar - 844124 was recorded before the Customs Officers, Dimapur under Section 108 of Customs Act, 1962, on 19.06.2020 wherein he stated inter-alia:-

- i) That, on 19.06.2020 at around 0600 hrs he received a call from Shri Gyana Ram, a labourer, that Assam Rifles personnel are in the godown and asking for the godown's keys. He spoke to the Assam Rifles personnel over phone who asked him to bring the godown keys. So he went to the godown and opened it. The bags were then counted and 1550 bags of supari were found in the godown. The Customs officers also came and enquired about the owner of the goods and documents but he couldn't produce any document as he was not given any papers at the time of handing over the godown keys to him. After checking and counting the goods Customs officers sealed the godown.
- ii) That, he was taken to Customs office. That, before coming to Dimapur he worked as labourer in Bihar. That, he came to Dimapur just four months before the nationwide lockdown.
- iii) That, the recovered goods belong to Shri Pawan Kumar and he handed him the godown keys. That, Pawan Kumar is the son of

Lakhindra Ray, Gram Baksama, P.O. Baksama, Thana Goraul, Baksawan, Vaishali, Baksama, Bihar -844122 and his contact number is 7005148885.

- iv) That, he is a poor labourer and has no idea about the goods kept in the godown. That, he had heard that areca nuts are being kept in the godown but he had no idea from where they brought the goods. That, whenever goods are loaded or unloaded, he helps in the work.

6. Samples of the seized areca nuts were sent to the Food Analyst, Govt. of Assam. Bamunimaidan, Guwahati-781021 Assam vide letter C.No. VIII(10)02/CL/CUS/IMP/DCPF/DMR/20-21/1067 dated 19.06.2020 and to the Plant Quarantine Station, Lankeshwar, Guwahati-781014 vide letter C.No. VIII(10)02/CL/CUS/IMP/DCPF/DMR/20-21/1072 dated 19.06.2020.

7. Based on the statement given by Shri Lalan Kumar, Summons under Section 108 of the Customs Act, 1962 was issued to Shri Pawan Kumar, owner of the seized goods on 24.06.2020 to the Shri Omprakash Sethi, owner of the godown on 17.07.2020 asking them to appear in person/through an authorized representative.

8. The appellant appeared in response to summons issued to him and informed that he was informed by Shri Lalan Kumar that his godown had been raided by personnel of the 5th Assam Rifles on 19.06.2020 at 06:00 hrs. On the suspicion of storage of Areca Nuts of foreign origin and that the case has been handed over to Customs authorities; that he was also informed that he had to present himself

before the Customs authorities; however, he could not appear.

9. Thereafter, samples were drawn and it was found that samples were not suitable for use for human consumption as per food safety and standards regulations.

10. On the basis of the above, a Show Cause Notice was issued to the appellant 26.11.2020 asking the appellant to show cause as to why the goods under seizure should not be confiscated and penalty not be imposed on the appellant.

11. The matter was adjudicated and , by way of the impugned order, on the belief that the seized Areca Nuts in question are of foreign origin, the same were absolutely confiscated and a penalty of Rs.6,35,000/- was also imposed on the appellant under Section 112(b) of the Act.

12. Aggrieved from the said order, the appellant is before us.

13. Heard the Ld. Counsel for the appellant and the Ld. Authorised Representative for the Revenue.

14. We find that in the present case, the Areca Nuts in question are not notified items under Section 123 of the Customs Act, 1962. Therefore, the onus lies on the Revenue to show that the Areca Nuts in question are of foreign origin. As the goods have been seized on the belief that the goods were of foreign origin, but the Revenue has failed to prove so, in the circumstances, we hold that the impugned proceedings are not sustainable against the appellant. Consequently, the order of absolute

confiscation of the goods in question is set aside. No penalty is imposable on the appellant.

15. In these terms, we set aside the impugned order and allow the appeal, with consequential relief, if any.

(Operative part of Order was pronounced in Open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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