

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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75191 of 2019

(Arising out of Order-in-Original No. 18/CUS/CC(P)/WB/2018-19 dated 04.10.2018 passed by the Commissioner of Customs (Preventive), West Bengal, Kolkata, Custom House, 3rd Floor, 15/1, Strand Road, Kolkata – 700 001)

Commissioner of Customs (Preventive)

: Appellant

Custom House, 15/1, Strand Road, 3rd Floor,
Kolkata – 700 001 (West Bengal)

VERSUS

M/s. Right Minerals Private Limited

: Respondent

9, Surenda Mohan Ghosh Sarani, Mangoe Lane,
Kolkata – 700 001 (West Bengal)

AND

Customs Appeal No. 77475 of 2019

(Arising out of Order-in-Original No. 18/CUS/CC(P)/WB/2018-19 dated 04.10.2018 passed by the Commissioner of Customs (Preventive), West Bengal, Kolkata, Custom House, 3rd Floor, 15/1, Strand Road, Kolkata – 700 001)

Shri Kishan Goswami, Proprietor,

: Appellant

M/s. S. Krishna & Co.

No. 6, Wood Street, 1st Floor,
Kolkata – 700 016 (West Bengal)

VERSUS

Commissioner of Customs (Preventive)

: Respondent

Custom House, 15/1, Strand Road, 3rd Floor,
Kolkata – 700 001 (West Bengal)

APPEARANCE:

[Appeal No. C/75191/2019:]

Shri Subrata Debnath, Authorized Representative, for the Appellant / Revenue

None or the Respondent

[Appeal No. C/77475/2019:]

Shri B.K. Singh, Advocate, for the Appellant

Shri Subrata Debnath, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

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

FINAL ORDER NOs. 75934-75935 / 2026

DATE OF HEARING / DECISION: 27.07.2026

ORDER: [PER SHRI ASHOK JINDAL]

Both these appeals are having a common issue and therefore, they are disposed of by way of this common order.

1.1. These appeals pertain to imports pertaining to Durgapur Commissionerate.

2. The facts of the case are that M/s. Right Minerals Private Limited had filed Bills of Entry for clearance of Areca Nuts imported through Sri Lanka on the basis of Certificate of Country of Origin issued by the concerned agency located in Sri Lanka. The Revenue was of the view that the said Certificate of Country of Origin was defective and not proper and thus, the said goods were detained. On this basis, proceedings were inter alia initiated against M/s. Right Minerals Private Limited and Shri Kishan Goswami (Appellant before us in Appeal No. C/77475/2019).

3. The matter travelled up to the Hon'ble High Court at Calcutta whereafter it was held that a Show Cause Notice under Section 28 of the Customs Act, 1962 cannot be issued in this case against M/s. Right Minerals Pvt. Ltd.

4. On the basis of the above verdict of the Hon'ble High Court, such proceedings against M/s. Right Minerals Pvt. Ltd. were dropped, against which the Revenue is in appeal (Appeal No. C/75191/2019).

4.1. Further, by way of the impugned order, without specifying the role of the appellant, namely, Shri Kishan Goswami, a penalty of Rs.10,00,000/- has been imposed under Section 112(a) and (b) of the Customs Act, 1962. Against the imposition of penalty on him, Shri Kishan Goswami is in appeal before us (Appeal No. C/77475/2019).

5. Heard the parties and considered their submissions.

6. Admittedly, the Hon'ble High Court at Calcutta, in this case, has held that Show Cause Notice under Section 28 of the Customs Act, 1962 is not valid. Thus, we find that the Id. adjudicating authority has rightly dropped such proceedings initiated against M/s. Right Minerals Pvt. Ltd. under Section 28 of the Act. In that view, we do not find any merit in the appeal filed by the Revenue and therefore the same is dismissed.

7. We further take note of the fact that nowhere in the Show Cause Notice as well as the impugned order, the role or involvement of Shri Kishan Goswami (appellant in Appeal No. C/77475/2019) in obtaining defective Country of Origin Certificates from the Sri Lankan Authorities has come out. In these circumstances, we hold that no penalty can be imposed on the said appellant, Shri Kishan Goswami. Accordingly, the penalty imposed on Shri Kishan Goswami is set aside.

8. In these terms, the appeals are disposed of.

(Dictated and pronounced in the open court)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)