

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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75246 of 2022

(Arising out of Order-in-Appeal No. 51/Pat/Cus/Appeal/2019-20 dated 22.11.2019 passed by the Commissioner (Appeals), of Central G.S.T. and C.X., Patna, 2nd Floor, C.R. Building (Annexe), Bir Chand Patel Path, Patna – 800 001)

Vinod Kumar Agarwal

: Appellant

S/o. Late R.S. Agrawal,
Resident of A-2/138. Safdarjung Enclave,
New Delhi – 110 029

VERSUS

Commissioner of Customs (Preventive)

: Respondent

C.R. Building (Annexe), Bir Chand Patel Path,
Patna – 800 001

APPEARANCE:

Shri Prithwijit Sharma, Advocate for the Appellant

Shri Sourabh Chakravorty, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. 76602 / 2025

DATE OF HEARING / DECISION: 23.06.2025

ORDER:

The present appeal has been filed by Shri Vinod Kumar Agarwal (hereinafter referred to as the "appellant") against the imposition of penalty to the tune of Rs.20,000/- (Rupees Twenty Thousand only) under Section 112 of the Customs Act, 1962 and the redemption fine of Rs.80,000/- (Rupees Eighty Thousand only) imposed under Section 125 of the Act in lieu of confiscation of the vehicle, which have been upheld by the Ld. Commissioner (Appeals), Central G.S.T. and C.X., Patna vide the impugned order.

2. The facts of the case are that the Officers of the Directorate of Revenue Intelligence (DRI) intercepted a truck bearing Registration No. NL-01AA-5448 carrying 3,975 kgs. of Vietnamese Black Pepper and 17,021 kgs. of Arhar, collectively valued at Rs.43,27,172/-.

3. A Show Cause Notice dated 26.09.2018 was issued, proposing penalty confiscation of the said goods. In the said Show Cause Notice, penalty was also proposed on the appellant herein, being the owner of vehicle carrying the said goods.

4. During the course of hearing, the appellant submits that there is no evidence available on record to show that the vehicle in question had been involved in a smuggling or any other offence under the Customs Act. It is submitted that in the instant case, the vehicle was under the custody of the driver, who, without his knowledge, had used the vehicle for carrying the said goods. Further, it is contended by the appellant that the driver was not aware that the goods were smuggled in nature.

4.1. Moreover, the appellant submits that as a transporter, he has no motive in carrying the smuggled goods; he had transported the said goods only on receipt of transportation charges and there is no evidence available on record to establish that he has colluded with the importers in the alleged smuggling activity.

4.2. In view of the above submissions, the appellant prays that the confiscation of the vehicle may be set aside and thus the redemption fine imposed against such confiscation may also be set aside.

4.3. Accordingly, contending that he has not done anything wrong, except carrying the goods in question with valid documents, the appellant submits that no penalty is liable to be imposed on him. Hence, the appellant prayed for setting aside the penalty imposed on him.

5. The Ld. Authorized Representative of the Revenue submits that the vehicle in question had been used for carrying Vietnamese Black Pepper and Arhar, smuggled from Nepal in breach of the Customs Act, 1962. Accordingly, he justified the order of confiscation of the said vehicle and submitted that the redemption fine has been rightly imposed thereon. In view of this, he also supported the imposition of penalty on the appellant.

6. Heard both sides and perused the appeal records.

7. I observe that, in this case, the Officers of the DRI had intercepted the said Vehicle bearing Registration No. NL-01AA-5448 near Bettiah (Bihar), which was carrying 3,975 kgs. of Vietnamese Black Pepper and 17,021 kgs. of Arhar. It is a fact that the appellant has been carrying the goods in his capacity as a transporter, on receipt of transportation charges. I also find that there is no evidence available on record to indicate that the appellant was having knowledge that the goods in question were smuggled into the country. Thus, I find that the appellant cannot be held responsible for the act of transportation of the said goods.

7.1. Considering the fact that there is no evidence available on record to substantiate the allegation that the appellant is also involved in the alleged offence, I hold that the truck carrying the said goods cannot be confiscated. Consequently, the redemption fine imposed in lieu of such confiscation is liable to be set aside.

7.2. I further observe that there is no proof that the appellant had played any role in the alleged offence, to warrant imposition of penalty on him under Section 112 of the Customs Act. Therefore, the penalty imposed on the appellant under Section 112 of the Act is also liable to be set aside.

8. In view of the above, I set aside the order of confiscation of the truck bearing Registration No. NL-01AA-5448 along with redemption fine of Rs.80,000/- imposed in lieu of such confiscation. The personal penalty of Rs.20,000/- imposed on the appellant under Section 112 of the said Act is also set aside.

9. The appeal stands disposed of in the above manner.

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

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd