



Serial No.01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No. 43 of 2024

Date of CAV: 24.02.2025

Date of pronouncement: 13.03.2025

1. Union of India represented by the Secretary to the Government of India, Department of Revenue, New Delhi-110001.
2. The Commissioner of Customs (Preventive), North East Region, Customs House, 110, MG Road, Shillong 793001, Meghalaya.

...Appellants

- Vs -

Smti. Laltanpuui
Proprietor of Two Brothers,
T-4, T Section, Edenthur,
Aizawl, Mizoram 796007.

...Respondent

Coram:

Hon'ble Mr. Justice I.P. Mukerji, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellants : Dr. N. Mozika, DSGI with
Ms. K. Gurung, Adv.

For the Respondent : Mr. N. Dasgupta, Adv. with
Mrs. A. Synrem, Adv.

i) Whether approved for reporting in Law journals etc.: Yes

ii) Whether approved for publication in press: Yes/No

For proper public information and transparency, any media reporting this judgment is directed to mention the composition of the bench by name of judges, while reporting this judgment/order.



J U D G M E N T

(Delivered by the Hon'ble, the Chief Justice)

This is an appeal from a judgment and order dated 27th June, 2024. It was made by a learned single judge of this Court in the exercise of his writ jurisdiction in the writ petition [WP(C) No. 192 of 2023].

This writ involves a very fine point of law.

The Appellant Customs authorities (the appellant/Customs) seized 32 MT of betel nuts from the respondent on 29th October, 2017 on the ground that they were illegally imported and liable to be confiscated and penal action under Section 124 of the Customs Act, 1962. This order of confiscation was challenged by the respondent before the Tribunal constituted by the said Act (CESTAT). It ordered release of the goods. The appellant filed a statutory appeal before the High Court which affirmed the order of the Tribunal. The appellant went up to the Supreme Court which did not interfere with this order. The Special Leave Petition was dismissed by that court on 31st October, 2022. Throughout this period from the seizure to the order of the Supreme Court on 31st October, 2022, with the orders of CESTAT and this Court intervening on 9th December, 2020 and 28th October, 2021 respectively, the appellant retained the goods. By the time the Supreme Court disposed of the matter, the goods had been disposed of by the



appellant. The appellant said that the goods had become unfit for human consumption and in the circumstances had to be destroyed.

The respondent preferred a writ petition before this Court with a simple prayer for assessment of the seizure value of the goods and for its payment by the appellant to the respondent together with interest.

The writ was heard by a learned single judge of this Court from time to time. On 24th April, 2024 an interim order was passed which recorded that the Tribunal had valued the goods at ₹88 lakhs. The learned Deputy Solicitor General was instructed by the Court to take instructions as to whether his client was willing to pay ₹60 lakhs which the respondent had agreed to accept as the value of those goods.

The matter came up for final consideration before the learned single judge on 27th June, 2024. On that day his lordship finally disposed of the writ.

At the final hearing, a submission was advanced on behalf of the appellant that it had destroyed the goods and not sold it or received any consideration for it and hence not liable to pay any compensation.

After considering the submissions, the learned single judge directed the appellant to pay ₹60 lakhs to the respondent within eight weeks from the date of the order failing which they would have to pay interest at the rate of 12 per cent per annum.



The Customs is before us on appeal.

Before proceeding further with this matter, a few facts are very relevant and need to be remunerated and re-examined.

The respondent claimed the betel nuts to be an indigenous product of Mizoram. The appellant claimed they were illegally imported. A large consignment of these betel nuts were seized by the Customs on 29th October, 2017. After seizure and more particularly on 14th November, 2017, 4th January, 2018 and 15th January, 2018 by representations, the respondent sought provisional release of the seized goods under Section 110A of the Customs Act, 1962. They were not released by the appellant. On 27th April, 2018, a show cause notice was issued by the appellant under Section 124 of the said Act alleging illegal importation, and asking the respondent to show cause why her consignment should not be confiscated and penalty imposed on her. On 6th June, 2019, the Commissioner of Customs (Preventive) NER, Shillong in an order affirmed the allegations in the show cause notice.

On appeal, the Tribunal in Kolkata, CESTAT, on 9th December, 2020, allowed the appeal holding that the appellant has been unable to prove that the goods were illegally imported and directed their release.



The appellant preferred an appeal before this Court under Section 130 of the Customs Act, 1962. On 28th October, 2021, this Court affirmed the order of the Tribunal and dismissed the appeal.

The appellant did not stop there. They preferred a Special Leave Petition before the Supreme Court, which was dismissed on 31st October, 2022.

According to the respondent, she had no information about the status of the goods seized. On 13th January, 2021, she made an application under the Right to Information Act, 2005 before the Customs authority seeking information about the betel nuts. On 4th February, 2021, the respondent was informed by the Deputy Commissioner (A&R) that the goods being unfit for human consumption had been destroyed by the Customs authority. The annexures to the writ petition enclosing the documents appended to the reply to the respondent's said query are very significant.

The Assistant Commissioner of Customs, Guwahati wrote to the Commissioner of Customs (Preventive) NER, Shillong on 11th February, 2019 on the following terms. The food analyst's report of the Government of Assam dated 11th December, 2017 and 28th March, 2018 accompanied by the laboratory test report dated 20th November, 2017



and 6th March, 2018 stated that the goods were “damaged having fungal infestation and hence were not suitable for use of human consumption”.

Permission was sought to destroy the consignment of betel nuts by dumping them in a huge pit within the office area of the Customs in Guwahati or by fresh air waste management services. On 18th February, 2019, the Superintendent (Hqrs. Disposal), Office of the Commissioner of Customs (Preventive), NER, Shillong wrote to the Assistant Commissioner Customs (P) Division, Guwahati that the Commissioner of Customs had given permission for disposal of 109804 kgs of dry betel nuts (which included the respondent’s goods as well as other seized betel nuts of other owners) by dumping them in the said pit in the office area of the Customs in Guwahati. The Assistant Commissioner, Guwahati on 8th March, 2019 wrote to the Directorate of Revenue Intelligence, Guwahati to hand over the said goods to his department for disposal. It appears from a certificate issued by the Customs authorities at page 123 of the paper-book that on 28th, 29th and 30th March, 2019 the seized betel nuts value of which was shown as ₹88 lakhs were disposed of by dumping them into the pit in the Customs premises at Guwahati.

First of all, there is clear admission by the appellant that as on the date of seizure the value of the goods was ₹88 lakhs. From the date of seizure up to the date of dumping of the goods in the pit about one and a



half years had elapsed. These goods were in the custody of the Customs. They had an obligation to explain how the goods were or became unfit for human consumption. If the goods at the time of seizure were unfit for human consumption, they could not have been valued at ₹88 lakhs at that point of time. Therefore, this condition was reached in the custody of the Customs. Whether such deterioration was natural or due to some action or inaction on the part of the Customs had to be explained by the Customs authorities. The onus of proof was upon them. They have not been able to discharge it.

Even if the reports of the expert agencies like food analyst and the specialised laboratory made between December, 2017 and March, 2018 suggested that the goods were unfit for human consumption, still the respondent ought to have been given a chance to be present when the test was carried out or to be provided with a copy of the report to seek second opinion or to take some steps with regard to it.

Most importantly, before destroying the goods, the respondent ought to have been informed.

Now, that the Supreme Court has not interfered with the order for release of the goods, the appellant has saddled itself with liability for having disposed of the goods which belonged to the respondent, without



her notice or knowledge. In those circumstances, the appellant has made itself liable to pay damages to her for loss of the goods.

As a Court of appeal in writ jurisdiction, we are unable to evaluate the evidence by which the goods have been valued at ₹88 lakhs at the time of seizure. No case is before us to show that there was grave error or miscarriage of justice in making the valuation. The respondent has agreed to accept ₹60 lakhs. We cannot interfere with those established facts.

The learned single judge has allowed the writ petition by directing payment of the said sum by the appellant to the respondent.

I find no infirmity in the said judgment and order. I affirm the same. The appeal is, accordingly dismissed. I direct the appellant to comply with the impugned judgment and order of the learned single judge within four weeks of communication of this order.

(W. Diengdoh)
Judge

(I.P. Mukerji)
Chief Justice

Meghalaya
13.03.2025
"Sylvana PS"