GAHC010115782026

2026:GAU-AS:11587

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3088/2026

ANKIT CHOUDHARY
S/O SHRI SHASHI KUMAR CHOUDHARY, R/O SPACE TOWN HOUSING COMPLEX, BL-4, FLAT-5J, VIP ROAD, KOLKATA 700052, WEST BENGAL
WHO IS THE SOLE PROPRIETOR OF THE PROPRIETORSHIP CONCERN M/S ANKIT ENTERPRISES, PRINCIPAL PLACE OF BUSINESS NEAR RITURAJ HOTEL, , 3RD FLOOR TALUKDAR BUILDING, KEDAR ROAD, GUWAHATI, KAMRUP METROPOLITAN, ASSAM- 781001

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY THE SECRETARY, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVT OF INDIA, NORTH BLOCK, NEW DELHI

2:THE COMMISSIONER OF CUSTOMS (PREVENTIVE)
NER CUSTOMS PREVENTIVE COMMISSIONERATE
CUSTOM HOUSE
110 M.G. ROAD
SHILLONG
MEGHALAYA 793001

3:THE SUPERINTENDENT (ANTI SMUGGLING)
GUWAHATI CUSTOMS DIVISION
NILAMONI PHUKAN PATH
CHRISTIAN BASTI
GHY - 781005

4:THE ASSISTANT COMMISSIONER
GUWAHATI CUSTOMS DIVSION
NILAMONI PHUKAN PATH
CHRISTIAN BASTI
GHY 781005

5:THE INSPECTOR (ANTI SMUGGLING UNIT)
GUWAHATI CUSTOMS DIVISION
NILAMONI PHUKAN PATH
CHRISTIAN BASTI
GHY 781005

6:M/S PRIME LOGISTICS
KEDAR ROAD
FANCY BAZAR
GHY 781009
ASSAM

7:SRI HUSSAIN AHMED
S/O AYAS ALI
R/O VTC BHAIRABPUR
P.O.- KALAIN
SUB-DIST KALIGORA
CACHAR
ASSAM
PIN 788815

8:MS SK ENTERPRISES
21
AMORTOLLA STREET
3RD FLOOR
BURABAZAAR
KOLKATA 700001
WEST BENGA

Advocate for the Petitioner : DR. ASHOK SARAF, MR P BARUAH,MR. P DAS,MR. N N DUTTA,MR S J SAIKIA,MR P K BORA,B SARMA,MR. A. KAUSHIK

Advocate for the Respondent : DY.S.G.I., SC, CUSTOMS

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

14.08.2026

Heard Dr. A Saraf, learned senior counsel assisted by Mr. A Kaushik, learned counsel for the petitioner. Also heard Mr. S Chutia, learned Standing counsel, Customs

Department for the respondent Nos. 1 to 5.

2. By way of the present petition under Article 226 of the Constitution of India, the petitioner assails the seizure effected vide Inventory of Goods Seized dated 07.08.2025 and seeks release of the seized goods along with the vehicle bearing Registration No. AS-01-TC-9600.

3. The brief facts of the case are that the subject consignment of Areca Nuts, being transported in the aforesaid vehicle, was seized and detained on 07.08.2025 on suspicion that the same were of foreign origin, purportedly in exercise of powers under Section 110 of the Customs Act, 1962 (hereinafter referred to as the "Customs Act"). It is the specific case of the petitioner that the goods were duly accounted for and that the petitioner is a registered dealer under the Goods and Services Tax Act in connection with inter-State sale and transportation of goods. Notwithstanding the same, the goods were seized vide the impugned Inventory of Goods Seized dated 07.08.2025.

4. Upon hearing the learned counsel appearing for the parties and upon perusal of the materials available on record, it appears that the investigation has since been completed and a show-cause notice dated 03.08.2026 has also been issued to the petitioner.

5. Section 110A of the Customs Act provides for provisional release of goods, documents and things seized under Section 110 pending adjudication and reads as under:

> *110A. [Provisional release of goods, documents and things seized pending adjudication. [Inserted by Act 29 of 2006, Section 26 (w.e.f. 13.7.2006).]*
>
> *- Any goods, documents or things seized under section 110, may, pending the order of the adjudicating officer, be released to the owner on taking a bond from him in the proper form with such security and conditions as the Commissioner of Customs may require.]*

6. Thus, the Customs Act itself contains a statutory mechanism for provisional release of goods, documents and things seized under Section 110 pending

adjudication.

7. Admittedly, the investigation has been completed and the matter is presently pending adjudication before the competent Adjudicating Authority. It further appears from the record that the petitioner has already approached the Adjudicating Authority, namely, the Commissioner of Customs (Preventive), N.E.R., Customs House, 110, M.G. Road, Shillong, Meghalaya–793001, seeking provisional release of 38,000 Kgs. (Gross 39,500 Kgs.) of Areca Nuts, valued at Rs.49,87,500/-, covered by Consignment Note No.383 dated 06.08.2025 issued by GSTIN 18CIEPC6605B1ZS, M/s Ankit Enterprises, Guwahati, along with the connected vehicle, in terms of Section 110A of the Customs Act.

8. The aforesaid application seeking provisional release is stated to be pending consideration before the Adjudicating Authority.

9. Dr. A. Saraf, learned senior counsel appearing for the petitioner, submits that the petitioner is ready and willing to comply with such conditions as may be imposed for provisional release of the seized goods and has instructed his counsel that he is prepared to furnish a bank guarantee equivalent to the value of the goods, stated to be Rs.49,87,500/-, as security for such release.

10. Per contra, Mr. S. Chutia, learned Standing Counsel, Customs Department, submits that the invoice annexed as Annexure-II to the writ petition in respect of the seized goods itself is disputed. He further draws the attention of this Court to the Inventory of Goods Seized dated 07.08.2025, wherein the market value of the seized goods has been assessed at Rs.1,40,22,500/-.

11. At this stage, this Court would not be justified in entering into or adjudicating upon the disputed questions relating to the valuation of the seized goods or the correctness of the invoice relied upon by the petitioner. Those are matters which fall within the domain of the competent Adjudicating Authority. It is, however, noticed that the petitioner seriously disputes the basis on which the market value of the seized

Areca Nuts has been assessed at Rs.1,40,22,500/-, particularly when the invoice relied upon by the petitioner reflects a substantially lower value.

12. Having regard to the fact that a substantial quantity of Areca Nuts belonging to the petitioner continues to remain in the custody of the Customs Department and, more importantly, having regard to the statutory mechanism provided under Section 110A of the Customs Act for provisional release of seized goods pending adjudication, this Court is of the considered view that the present writ petition can appropriately be disposed of at this stage by directing the competent Adjudicating Authority to consider and dispose of the petitioner's application for provisional release in accordance with law.

13. Accordingly, the Commissioner of Customs (Preventive), N.E.R., Customs House, Shillong, being the competent Adjudicating Authority, is directed to consider and dispose of the petitioner's application dated 08.03.2026 [Annexure-XI to the writ petition] seeking provisional release of the seized goods and the vehicle, in accordance with law and, in particular, in terms of Section 110A of the Customs Act, by taking such bond, security and imposing such conditions as may be considered appropriate in the facts and circumstances of the case.

14. While considering the application for provisional release, the Adjudicating Authority shall determine the value of the seized goods strictly in accordance with law and shall pass a reasoned order dealing with the rival claims of the parties regarding such valuation.

15. The aforesaid exercise shall be completed expeditiously and, preferably, within a period of two weeks from the date of receipt of a certified copy of this order.

16. It is made clear that this Court has not expressed any opinion on the merits of the allegations contained in the show-cause notice, the origin of the seized goods, the correctness of the invoice, or the actual valuation thereof. All such issues are left open for determination by the competent Adjudicating Authority in accordance with law.

17. With the aforesaid observations and directions, the writ petition stands allowed and disposed of.

JUDGE

Comparing Assistant