

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.891 of 2009
IN
Civil Writ Jurisdiction Case No. 13875 of 2008**

=====

1.The Union of India
2. The Assistant Commissioner of Customs, Muzaffarpur
3. The Insepctor of Customs (P) Circle, Sitamarhi.

.... Appellant/s

Versus

Birendra Thakur, Son of Ram Shristha Thakur, village-Ramnagar,P.S.-
Riga,Sitamarhi

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mrs. Nivedita Nirvikar, Advocate

For the Respondent/s : Mr. None.

=====

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 28-04-2015

Heard Mrs. Nivedita Nirvikar, learned counsel for the

Union of India and the Customs authorities.

2. None appears for the writ petitioner- respondent though

he has been validly served notice issued vide order dated 25.01.2010
and 11.05.2011, which is evident from the records.

3. Having considered the Interlocutory Application No.
4158/2009, we find that Union of India was prevented by sufficient
cause in not preferring the appeal within time. Accordingly, we
condone the delay of 15 days in filing the appeal.The Interlocutory
Application is allowed.

4. Union of India, Custom authorities have filed this appeal



assailing order dated 02.04. 2009 passed in CWJC No. 13875 of 2008, whereunder seizure of timber of foreign origin loaded on a truck, was quashed, holding that under Indo- Nepal Treaty, timber of Nepal origin was not liable for payment of customs duty. In the circumstances, seizure and confiscation proceedings under Section 110 of the Customs Act was wholly inappropriate.

5. It is submitted on behalf of the Union of India and Custom Authorities that seizure of timber was made to verify its country of origin as also to confirm that the importer had valid Import- Export code granted by the Director General Foreign Trade as also to confirm that the timber imported into India is accompanied with Plant Quarantine Certificate granted by authorized laboratory in India. It is further submitted that Custom authorities had to assure themselves that timber imported into India was of Nepal origin duly certified by the Chamber of Commerce of Nepal to rule out the possibility that the timber was not imported from China or from any other country. Any importer of goods in India is required to possess Import-Export Code granted by the Director General of Foreign Trade, essential for the person importing goods in commercial quantity to possess the code for enabling him to import the goods in the country. The certificate from the authorized laboratory in India is necessary to rule out the possibility that any unauthorized plant or

timber is not imported in the country.

6. Customs Act has been enacted not only for collecting duty from importer of goods but also for other purposes, which is enumerated under Sub Section-2 of Section 11 of the Act and to achieve such objective, purpose, seizure of timber imported into India without obtaining Import- Export Code, Plant Quarantine Certificate and Certificate of origin from Chamber of Commerce, Nepal to confirm its country of origin for necessary verification, to prevent illegal import of goods in the country was made under impugned seizure. Further the truck loaded with the timber did not pass through the authorized route found parked without document indicated above as such officer who seized the timber had reason to believe that its seizure was necessary to initiate proceeding under section 110 of the Customs Act, 1962. Accordingly, we set aside the order of the learned Single Judge, granting liberty to the custom authorities to proceed in accordance with law.

(V.N. Sinha, J)

(Nilu Agrawal, J)

A.F.R
Sudha/-

U		T	
---	--	---	--