IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.17 of 2007

Shri Naresh,Goel, Partner of M/s Prakash Transport,P-17,New C.I.T. Road,Kolkatta-700073

... ... Appellant/s

Versus

Commissioner of Customs, Patna

... ... Respondent/s

Appearance :

For the Appellant/s : Mr.Saket Tiwari, Advocate
Mr. Saket Gupta, Advocate
Mr. Anuraj Singh, Advocate
Mr. Tarun, Advocate

For the Respondent/s : Mr.Satya Prakash Tripathy, Sr. SC. (Customs)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 02-07-2019

The instant appeal has been preferred against the order no. A-467/KOL/2004 dated 06.07.2004 passed in Appeal CDM-28-30 & 45/03 by the Customs, Excise and Services Tax Appellate Tribunal, Eastern Bench, Kolkata whereby the appeal preferred by the appellant was dismissed and the order dated 11.11.2002 passed by the Commissioner, Customs, Patna in so far as the appellant is concerned, was confirmed.

The facts of the case in brief is that on receipt of information at about 17.00 hours on 28.08.2001 to the effect that a truck bearing registration no. NA-1KH-2715 loaded with antiques and other goods would cross from India into Nepal, the officers of Raxaul Customs were alerted. The said truck entered the examination yard in the custom's area of LCS, Raxaul at about 18.00 hours. The truck was searched in presence of the driver and two independent witnesses. On search, with other similar looking packages of motor parts, a heavy wooden crate was also found. On unloading the same, it was found to contain a grey coloured monolithic rock statue of a seated female deity measuring 90 cms. in height and 42 cms. in width.

On perusal of the bills of export filed with respect to the goods loaded inside the said truck and entered for export to Nepal, it transpired that the major part of the goods inside i.e 19 out of 35 packets including the said female statue, were not declared. On query the driver of the truck Sheikh Ahmed disclosed that the goods were loaded from the godown of M/s. Prakash Transport, Raxaul as per the directions of one Mr. Ishwar Chand Goel @ Pappu. The driver led the Customs Officers to the godown located in the Bhartiya Complex, Raxaul and opposite to the office of the said transport company but both the godown and the office were found to be deserted. The officers of the Customs, Raxaul sealed the said godown.

The further case of the respondents is that the Raxaul Customs Officers revisited the godown and the office premises of the transport company the next day on 29.08.2001 but again found the same to be deserted. The officers telephoned the Birganj, Nepal Branch of the said transport company for deputing some persons for getting the said premises searched. Inspite of assurances, no one turned up. Thus, in presence of two independent witnesses and the landlord of the said rented premises, the officers opened the godown and conducted a search which led to the recovery of another similar but smaller wooden crate containing another dark grey monolithic rock statue of a seated male deity measuring 45 cms. in height and 27 cms. in width. This statue was also brought to the Customs Office, Raxaul. The godown was re-locked and the custody of the premises was handed over to the landlord. Two persons associated with National Co-operative Consumer Federation (NCCF) who claimed some knowledge in the matter, opined that both the statues were antiques and were expected to fetch a price of rupees one and half crores in the international market. Thus, both the statues were seized for attempted smuggling, in contravention of section 11(1) and section 3 read with section 4 of the Antiquities & Art Treasures Act, 1972. The other goods, both declared and undeclared which were used to conceal the aforesaid first statue inside the said truck and some undeclared goods were also seized for contravention of section 119 and section 50 of the Customs Act, 1962. In addition, one item namely, ‘Peritoneal Dialysis Solution’ was also seized for violation of the Indo-Nepal Treaty as the same was of third country origin. The truck with registration number of Nepal was also seized for abetting the carriage and smuggling of the said contraband goods and thus attracting confiscation under Section 115(2) of the Customs Act, 1962.

The driver namely, Sheikh Ahmed in his statement made on 29.08.2001, before the Superintendent (Prev.), L.C.S., Raxaul stated that the entire goods in his truck were loaded on 28.08.2001 from the Bhartiya Complex Godown of M/s. Prakash Transport, Raxaul on the directions of the Manager, Ishwar Chand Goel @ Pappu and were bound for Kathmandu, Nepal. He stated that the Customs Officers searched his truck in presence of two independent witnesses besides himself and found the female deity statue inside a wooden crate. He thereafter, led the Customs Officers to the godown but in view of the late hour and the absence of the staff of the transport company, the godown was sealed by the Customs Officer. He further stated that apart from the Manager, Ishwar Chand Goel, Surendra, Hari Narayan and Ramakant were doing the work of loading and unloading in the said transport company. The owner of the transport company was Naresh Goel (appellant herein) who sits in Kolkata but his address was not known to him. The Manager Ishwar Chand Goel works under the direction of the owner Naresh Goel. It was further stated by the driver that he was not aware of the contraband present in the truck but the Manager Ishwar Chand Goel and Binodji could be involved in the smuggling activity. It is noted that Ishwar Chand Goel, even on earlier occasion had gone to jail on account of his involvement in a smuggling case. Thereafter, statements of Customs House Agent, (CHA) Shri A.K. Sinha, the owner of the transport company Naresh Goel besides others, were also recorded. It was stated by the Customs House Agent Shri A.K. Sinha that the Manager of the Transport Company Ishwar Chand Goel who was commonly known as Pappuji had contacted him with some invoices for export to Nepal and accordingly, he had prepared the bills of export of 15 items declared to him and after preparation of the same, the goods were loaded from Raxaul godown of the said transport company on the said truck.

Naresh Goel the appellant, in his statement stated that he did not know about the undeclared cargo including the said female statue loaded on the said truck. He further stated that they were running the transport business i.e. M/s Prakash Transport for the last 23-24 years having a yearly turn over of Rs. 3.20 crores. He informed that he was one of the two partners of the said transport company, the other partner being Rajesh Goel who resided at Delhi. It was stated that Ishwar Chand Goel, the Manager ran the Raxaul Branch and he was posted there for about 9 years. He further stated that the said Manager had himself employed two or three other staffs and paid them out of the funds of the transport company. It was further stated that he had gone on 20-25 days' tour of South India, Delhi, Ahmedabad and Nagpur and only on his return from Madras to Kolkata on 08.09.2001 did he learn about the seizure of the two old statues from the Raxaul Transport godown and the said truck. He did not know anything about the same and only the then Manager and his staff could explain their presence in the truck and the transport godown.

Subsequently, it transpires that since the Manager Ishwar Chand Goel had gone missing that a new Manager Shri A.K. Srivastava joined on 21.09.2001 who was also interrogated soon after his joining but he denied knowledge on the whereabouts of Ishwar Chand Goel. Further the driver of the truck Sheikh Ahmed and the Customs House Agent (hereinafter referred to as

CHA), categorically stated that all the loading of the entire goods on the truck was done at the instance of the Manager Ishwar Chand Goel. The said ex-Manager did not present himself before the authorities inspite of repeated summons and one of the summons sent to him returned with the postal remark that 'said named person has left the place for residence in Birganj'. Thus, in the opinion of the customs authorities, the goods and the truck were liable for confiscation in as much as the declared goods were used to conceal the non-declared goods including the antique statue and further the declared goods were supported by fake and duplicate invoices. Accordingly, show cause notices under Section 124 of the Customs Act, 1962 were sent to the Manager Ishwar Chand @ Pappu, the owner Naresh Kumar Goel (appellant herein) and two others. They were asked to show cause as to why the whole goods including the truck should not be confiscated. All the noticees including the ex-Manager Ishwar Chand Goel @Pappu as also the appellant herein submitted their reply to the above notices.

In his reply to notice, the ex-Manager Ishwar Chand Goel @ Pappu stated that the transport goods had been loaded in his presence with his direction to park the loaded truck near LCS, Raxaul. No idol was loaded in the truck in his presence. As per his case/reply, it is the driver, the CHA and the Customs Officers who can explain as to from where the statue was managed which was only with the intent to implicate his transport company and its staff. Alleging malafide intention on the Customs Officers it was stated that for no reason the driver and the CHA had not been made noticee in the case. It was further stated by the ex-Manager Ishwar Chand Goel @Pappu that all the transport goods were loaded on the truck in presence of Shri A.K. Sinha, CHA and he was given all concerned invoices for preparation of bill of export, it was the duty of the CHA to check whether the items were eligible for export to Nepal or not. As per his reply the truck was loaded with transport goods for export to Nepal as per the order of the respective concerned parties. No statue was received from any party nor it was to be exported to Nepal by the company. Both idols were not seized either from his possession nor from the conscious possession of his staff.

The appellant Shri Naresh Kumar Goel in his reply stated that in the statement of Shri A.K. Sinha, CHA, there is no direct allegation against him nor has any other person stated about his involvement in the case either directly or indirectly. He stated that he sits at Kolkata and is not supposed to be informed by Raxaul Branch for every happening. The Commissioner, Customs, Patna in his order dated 11.11.2002 dealt with each of the four noticees and with respect to the appellant herein held him liable to penalty under Section 114 of the Customs Act, 1962 and imposed a personal penalty of Rs. 10 lacs on the appellant. For the sake of ready reference the relevant paragraph of the order of the Commissioner, Patna dealing with the appellant is being quoted herein below :

> "26.4 (ii) NOTICEE NO. 2, SRI NARESH KUMAR GOEL."
>
> "He is the principal owner cum partner of M/s Prakash Transport co. From the circumstances of the case and perusal of investigation reports, it appears that he is the key figure controlling all the illegal activities of the said transport Company. His assertion in his defence reply that the antique idols were not recovered in his presence or in the presence of his staff and that the search of his godown was conducted in the night is not correct in the light of their deliberate absence despite reasonable efforts of Customs staff to secure their presence at the time of the search of the godown and incontrovertible facts of such recovery of idols attested by the independent witnesses and the driver and even the landlord of the said godown. In stead of disowning and denouncing the overt offence by his staff in the instant case, he has gone to the extent of not declaring their whereabouts and continued to support by full salary to his ex-manager even after his overt involvement having been proved and intimated to him. Common drafting of defence reply shows

that he has been in constant touch with them. His involvement along with Sri I.C. Goel has been established in several other cases in past. Joint Commissioner of Customs, Patna, has adjudged him as the main accused and offender in the Customs Hqrs., Patna's seizure case of 6000 mtrs. cotton jeans of third country origin valued at Rs. 7,50,000/- in his order in original no. 36-ADC/CUS/2000 dated 21.09.2000. In seizure case no. 36/2001 (Union of India vs. Ishwar Chand Goel & others,) a non-bailable warrant was issued against him and on rejection of his anticipatory bail application, he was sent to jail by the Court of P.O., Economic Offence, Muzaffarpur on 12.08.2002. He is presently on bail.

Sri Naresh Goel shielded Sri Akhtar Ali, Noticee No. 3 in the instant case who have been found involved in the case of fake exports through Sonauli Border as per Assistant Commissioner, Customs, Sonauli's fax dated 03.06.2002, by transferring him from his Sonauli branch to Raxaul branch. And when Raxaul Customs found Sri Akhtar Ali guilty of misleading them in the investigation of the instant case, he was again shifted to Birganj to let him out of reach of the Indian customs.

All these facts show that entire illegal activities committed in the garb of transport business through the various branches of M/s Prakash Transport Co. & their staff is being masterminded by Sri Naresh Goel. I, therefore, hold him liable to penalty under Section 114 of Customs Act, 1962."

Against the order dated 11.11.2002 passed by the

Commissioner, Customs Patna, the appellant preferred appeals CDM-28-30 & 45/03 before the Customs Excise and Service Tax Appellate Tribunal, Kolkata. The Appellate Tribunal, by its order dated 16.07.2004 was pleased to dismiss the appeal preferred by the appellant. The case of the appellant was dealt with by the Appellate Tribunal in paragraph no. 11 of its order which is being quoted herein below for ready reference :

> "So far as the appeal of Shri Naresh Kumar Goel is concerned, he is the owner/partner of the Prakash Transport Company and responsible for all activities of the firm. From perusal of the case, we find that the statement recorded under Section 108 of the Customs Act, 1962 revealed that he was indulged in smuggling activities. The driver of the truck, Sheikh Ahmed stated in his statement recorded on 29th August, 2001 that "the owner of the said Transport Company is Mr. Naresh Kumar Goel who sits in Kolkata but whose address was not known to him and the Manager, Mr. Ishwar Chand Goel, worked under his directions." Shri A.K. Sinha, Customs House Agent has also stated in his statement that Mr. Naresh Kumar Goel was overall head and owner of the said Transport Company at Kolkata and as per his knowledge it was under his directions that Mr. Ishwar Chand Goel was working. It is also evident from the fact that Mr. Naresh Kumar Goel was knowing the fact that Mr. Ishwar Chand was involved in smuggling activities even though he appointed him as a Manager of the

> Company. This fact is clear from the following observations of the adjudicating authority that "On query as to how he had appointed Mr. Ishwar Chand Goel to the post of Manager at Raxaul when he had been an accused in the Customs cases earlier, he stated that as far as he knew the offence was never proved." It clearly indicates that the smuggling activities of the Ishwar Chand was within the knowledge of Shri Naresh Kumar Goel and Ishwar Chand was acting on the direction of Naresh Kumar Goel. That is why he continued to pay salaries and other dues to the wife of Ishwar Chand even after Ishwar Chand absconded from his service as Manager. All these facts show that the entire smuggling activities were committed on the directions of Shri Naresh Kumar Goel. The Commissioner has rightly come to this conclusion that he was personally responsible for all the smuggling or illegal activities of the firms. So far, the confiscation of the goods in concerned, it has been rightly confiscated by the Commissioner. All the goods booked along with statute were used for concealing the statute. Under these circumstances, the order of the Commissioner does not require any interference. The appeal of Shri Naresh Kumar Goeal has no merits and deserves to be dismissed."

It is against the order of the Appellate Tribunal rejecting the appeal that the instant appeal under Section 130 of the Customs Act, 1962 has been preferred by the appellant Shri Naresh Kumar Goel.

This appeal was heard on 27.6.2019 and when Mr. Saket Tiwary, learned counsel for the appellant raised the following substantial questions of law to maintain the Appeal:

> "The substantial question of law which Mr. Saket Tiwari, learned counsel appearing for the appellant raises for consideration is, whether the finding of the statutory authority which has culminated in the order dated 16.07.2004 of the Customs Excise and Service Tax Appellate Tribunal, Eastern Regional Bench, Kolkata in Appeal Nos. CDM-28-30 of 2003 and 45 of 2003 in so far as the appellant Naresh Kumar Goyal is concerned is resting on no evidence and the only evidence relied by the statutory authority which is that of the driver Sheikh Ahmad, nowhere indicts the appellant rather specifically names the Manager Ishwar Chand Goyal."

Since the issue raised invited a consideration that the appeal was posted for final arguments with a view to final disposal as consented by the parties.

We have heard Shri Saket Tiwary, learned counsel for the appellant as also learned counsel appearing for the respondents. We have also gone through the materials available on record of the case.

On behalf of the appellant, it is challenging the legality of both the order(s) i.e. the order dated 11.11.2002 passed by the Commissioner, Customs, Patna holding the appellant liable to penalty under Section 114 of the Customs Act, 1962 and imposing a personal penalty of Rs. 10 lacs as also the order dated 06.07.2004 passed by the Customs Excise and Service Tax Appellate Tribunal, Kolkata, affirming the same that it has been submitted on behalf of the appellant that both the orders are illegal, erroneous and unsustainable on various grounds. It is the contention advanced on behalf of the appellant that the show cause notice issued to the appellant under Section 124 of the Customs Act, 1962 by the Deputy Commissioner, Customs LCS, Raxaul did not disclose the consequences which would follow in case the reply by the noticee was not found to be satisfactory. It is further contended that neither the noticee nor his representative got an opportunity to cross-examine the driver of the seized truck. It is the argument of learned counsel that the order of the Commissioner, Customs, Patna as also the Appellate Tribunal, in so far as the appellant was concerned is based on no evidence. It is submitted that the M/s. Prakash Transport Company, is a partnership firm of which, the appellant herein was one of the partners. It is contended that the other partner of the said company namely, Rajesh Goel who resides at Delhi, was not even proceeded with.

On behalf of the Customs Department it was contended that the order dated 16.07.2004 passed by the CESTAT, Kolkata, was a well reasoned order and the same was based on merits after carefully examining the facts and materials on record. It is argued that there was no violation of the principles of natural justice because the copies of the statements and other documents which were relied upon, had been furnished to the appellant and it was for the appellant to give a suitable reply to the show cause notice. It is contended that the CESTAT had placed reliance on the statement of the seized truck driver, the Customs House Agent besides others and both the driver as also the Customs House Agent had in their statements stated that the appellant was the owner of the transport Company and that he looked after the affairs of the transport business from Kolkata where he resided. It was further contended that the statement of the driver of the seized truck as also A.K. Sinha, Customs House Agent made under Section 108 of the Customs Act, 1962 were admissible and it had been found that although the appellant was stationed at Kolkata, his Manager, Ishwar Chand Goel was stationed at Raxaul and carried out the illegal activities under the directions of the appellant. It was finally contended that in view of the facts and circumstances of the case, the appellant had rendered himself liable for penalty under Section 114 of the Customs Act and as such it was a clear case not only of violation of the Customs Act, 1962 but also one of violation of the Antiquities and Art Treasures Act, 1972. It was finally submitted that the appellant had connived and indulged in conspiring to smuggle antique idols which were cultural heritage of the country. According to learned counsel for the department the appellant had failed to make out any case for interference in the orders appealed against and as such it was prayed that the appeal be dismissed.

The facts which are not in dispute are, that M/s. Prakash Transport was running the transport business since last 23-24 years and while the appellant happens to be one of the two partners of the said transport company and was stationed at Kolkata, the other partner Rajesh Goel resided at Delhi. In So far as the Raxaul Branch of the company is concerned, it is the Manager Ishwar Chand Goel who was running the same for the last 9 years i.e., since sometime around 1993 onwards.

It is also not in dispute that the appellant was on leave and on a trip of South India, Delhi, Ahmedabad and Nagpur and returned from Madras to Kolkata only on 08.01.2001. So far as the seizure and valuation of the two antique idols to the tune of Rs. 1.5 crores is concerned, it may be noted that as per the reply to the show cause notice of the appellant, the interrogatory statements of either the Manager Ishwar Chand Goel or the Customs House Agent A.K. Sinha or any other person, do not directly or even indirectly implicate him on the charge. On the other hand, in his reply, the Manager Ishwar Chand Goel @ Pappu has stated that all the transport goods were loaded on the said truck in presence of A.K. Sinha, the Customs House Agent. He has further categorically stated that he has neither claimed the ownership nor has any interest in the seized idols and thus has no concern with the confiscation proceeding. In so far as the valuation of the antique idols is concerned, the Commissioner Customs, Patna at paragraph no. 4 of his order has opined that they may fetch up to Rs. 1.5 crores in international market.

The learned Commissioner while referring to the two persons namely, Ramesh Chandra and Motilal both of Motihari states that they were local persons associated with the National Cooperative Consumer Federation who claimed some knowledge in the matter but were not technical expert.

It would be relevant to quote Section 24 of the Antiquities and Art Treasures Act, 1972 which reads as follows :

> "**24. Power to determine whether or not an article, etc., is antiquity or art treasure**.- If any question arises whether any article, object or thing or manuscript, record

> or other document is or is not an antiquity or is or is not an art treasure for the purposes of this Act, it shall be referred to the Director General, Archaeological Survey of India, or to an officer not below the rank of a Director in the Archaeological Survey of India authorized by the Director General, Archaeological Survey of India and the decision of the Director General, Archaeological Survey of India or such officer, as the case may be, on such question shall be final."

From perusal of the records, we do not find any reference been made to the Director General, Archaeological Survey of India in terms of section 24 of the Antiquities and Art Treasures Act, 1972. However, in the facts of the instant case, since the appellant has denied any knowledge or role in loading of the antique idols, whatever be their value, we do not deem it necessary to proceed any further in the matter of valuation.

We certainly are not impressed nor find merit in the contentions of the appellant that he did not get the opportunity to cross-examine the driver and that the show cause notice issued to him did not mention about the consequences on his failure to submit the defence reply. So far as denial of opportunity to cross-examine the driver Sheikh Ahmed is concerned, the statement of the driver made on 29.08.2001 has been reproduced by the Commissioner, Customs, Patna in paragraph 5 of his order and in so far as the appellant is concerned, the only statement made by the said driver is that the owner of the said transport company is Naresh Goel (appellant herein) who sits in Kolkata but whose address was not known to him and that the Manager, Ishwar Chand Goel, worked under his direction. From a reading of the statement of the driver of the truck, it does not transpire that any allegation either direct or indirect, had been made against the appellant. It is also not pointed out by learned counsel for the appellant as to what prejudice has been caused to the appellant on denial of opportunity to cross examine the said driver.

In so far as the second part of the submission is concerned that the show cause notice issued to the appellant did not contain the consequences in case, the defence reply did not find favour with the authorities, we are of the opinion that since the show cause notice was issued under Section 124 of the Customs Act, 1962, the statute itself takes care of the consequences of rejection.

We now turn ourselves to the substantial question of law raised. We have examined the reasons assigned by the Commissioner, Customs, Patna as also by the Appellate Tribunal at Kolkata to uphold the guilt of the appellant. We have quoted the relevant paragraphs of the orders passed by each of the two authorities. The only material available against the appellant as per the order of the Commissioner, Customs, Patna is, that the staff of the appellant was found deliberately absent at the time of search of the godown; that the appellant did not declare their whereabouts; and that the common drafting of defence reply showed that the appellant was in touch with them. The Commissioner, Patna Division mentioned about the involvement of the appellant in other cases in the past and that the appellant had shielded Akthar Ali who had been found involved in cases of fake export. In the opinion of the Commissioner, Customs these facts confirmed that these illegal activities were committed in the garb of transport business through various branches of Ms. Prakash Transport Company and that the appellant was the master mind of the illegalities.

The Appellate Tribunal at Kolkata while dealing with the case of the appellant in paragraph 11 of its order stated that it was the appellant who was the owner/partner of Prakash Transport Company and responsible for all activities of the firm. It was further stated that inspite of knowing about the past involvements of Ishwar Chand Goel yet he had been appointed by the appellant on the post of Manager at Raxaul. These facts, in the opinion of the Appellate Tribunal, showed that the entire smuggling activities were committed on the directions of the appellant.

From a perusal of the materials that was laid before the Commissioner, Patna and the Appellate Tribunal at Kolkata for their opinion, it would transpire that there is no material whatsoever against the appellant in so far as the seizure of the truck on 28.08.2001 and the undeclared goods, is concerned. The driver of the truck Sheikh Ahmed in his statement on 29.08.2001 has clearly stated that the goods were loaded on the truck on 28.08.2001 on the directions of Ishwar Chand Goel, the Manager and the truck was bound for Nepal. With respect to the appellant it was simply stated that he sits in Kolkata. The Manager Ishwar Chand Goel@ Pappu in his defence reply to the show cause notice has stated that the goods meant for transportation was loaded in his presence but no idol was loaded in the truck. Even the Customs House Agent A.K. Sinha who was interrogated on 31.08.2001 by the Customs authorities stated that on being contacted by the Manager Ishwar Chand Goel, after preparation of the bills of export, the goods were loaded from Raxaul godown of the said transport company on the truck. With respect to the appellant it was stated that he was over all head and owner of the said transport company and it was under his directions that Ishwar Chand Goel, the Manager was working. Thus, from the materials that has transpired including the statements/defence reply of the Customs House Agent A.K. Sinha, Manager Ishwar Chand Goel@Pappu and the driver of the truck Sheikh Ahmed, it is clearly evident that no legal/ admissible evidence had been brought on record to show the involvement of the appellant or that he was guilty of any act or omission or even guilty of abatement of such illegal act so as to fasten the penal liability of Rs. 10 lacs under Section 114 of the Customs Act 1962. The other lacuna in the proceeding is that while holding the appellant guilty on grounds that he was overall in-charge of the partnership firm, the respondents did not choose to proceed against the other partner of the transport company namely, Rajesh Goel who is said to reside at A/23 Model Town, Delhi.

In view of the facts stated herein above and taking into consideration the records of the case as also the submissions of the parties, we come to the conclusion that the instant is a case of no evidence, so far as the appellant herein is concerned. With respect to the discussions made by the Commissioner, Customs, Patna and the Appellate Tribunal at Kolkata in the impugned order(s) is concerned, it stands long settled that suspicion, howsoever grave, cannot be a basis for imposing penalty and the same could not have been done in absence of any legal and admissible evidence to confirm the guilt of the appellant.

For the reasons and discussions above, we hereby set aside the order no. A-465-467/Kol/2004 dated 06.07.2004 passed in appeals CDM-28-30 and 45/03 passed by the Customs Excise and Service Tax Appellate Tribunal confirming the order dated 11.11.2002 passed by the Commissioner of Customs, Patna in 0/0 21-CC/ADJ/2002, in so far as the appellant herein is concerned. Consequently, the order of personal penalty of Rs. 10 lacs imposed on the appellant under Sections 114 of the Customs Act, 1962 is also set aside.

The appeal stands allowed with no order as to costs.

(Jyoti Saran, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	05.08.2019
Transmission Date	