IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6149 of 2020

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M/s Maa Karni Traders having its Office at Charmain Road, inside Bhiwania Mill Compound, P.S. Dhubri, District Dhubri (Assam) through its Authorized Signatory Ramashankar Maurya aged about 44 years, Male, Son of Jai Ram Maurya, resident of Babri Complex, A.B.C. Gali, Athgaon, P.S. Bharauli Mukh, District Guwahati, Assam.

... ... Petitioner/s

Versus

1. The Union of India through Chief Commissioner of Customs, Central Revenue Building, Birchand Patel Path, Patna.
2. The Commissioner of Customs (Preventive), Hqrs, 5th Floor, Central Revenue Building, Birchand Patel Path, Patna.
3. The Additional Commissioner cum Adjudicating Authority office of the Commissioner of Customs (Preventive), Hqrs, 5th Floor, Central Revenue Building, Birchand Patel Path, Patna.
4. The Assistant Commissioner of Customs (Preventive), Division Motihari, District Motihari, Bihar.
5. The Inspector of Customs (Preventive) Division Motihari, District Motihari, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan Dwivedi, Advocate
For the Respondent/s	:	Mr. S.D. Sanjay, A.S.G.
		Mr. Anshuman Singh, A.C. to A.S.G.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
Date : 24-06-2020

Heard Mr. Prabhat Ranjan Dwivedi, learned counsel for the petitioner and Mr. S.D. Sanjay, learned A.S.G. assisted by Mr. Anshuman Singh, learned counsel for the respondent/Customs Department.

During the pendency of this writ petition which has been filed for release of the betel nuts and other items which were seized, a provisional order for release has been passed by the Commissioner, Customs, Patna.

Mr. Dwivedi, learned advocate for the petitioner has raised some objection with respect to the conditions imposed in the provisional release order to the extent that in his case, a more onerous condition has been imposed than what has been done in similar cases of seizure and release. He, therefore, submits that the Circular No. 35 of 2017, which is the basis for the Customs Department to provisionally release the seized goods in favour of the petitioner has been formulated for bringing about uniformity in matters of release of goods under Section 110A of the Customs Act. Treating different persons differently with respect to the conditions imposed in such release orders would not subserve the purpose behind formulating the guidelines.

Mr. Dwivedi, therefore, submits that this reflects a partisan approach of the Customs Department.

The aforesaid submissions of Mr. Dwivedi is countered by the learned A.S.G. on the premise that Section 110A of the Customs Act clearly stipulates that whatever conditions would be deemed fit by the adjudicating authority/Commissioner, the same could be imposed while provisionally releasing the goods. Conditions are imposed considering the facts and circumstances of each case. Two different cases cannot be treated alike.

In that view of the matter, it has been urged on behalf of the Customs Department that no interference be made with the conditions imposed in the provisional order of release.

This Court does not find any necessity of interfering with the provisional order of release.

However, if, for release of the vehicle which also has been seized along with the betel nuts, a request is made on behalf of the petitioner before the Customs Department for releasing the same on Bank guarantee, and not cash security, the same should be considered in correct perspective.

While saying all this, the Court has expressed no opinion on the validity of the seizure or any other aspect of the case.

With the aforesaid direction/observation, the writ petition stands disposed of accordingly.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	25.06.2020
Transmission Date	