

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12585 of 2019

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1. Abhimanu Kumar Jha Son of late Vimal Chandra Jha, Resident of Village-Pachadhi, Police Station- Pandaul, District- Madhubani- 847231
 2. Vikas Kumar Mishra, Son of Raj Kumar Mishra, Resident of Village-Pachadhi, Ward No. -4, Gurmha, Police Station- Pandaul, District-Madhubani.

... .. Petitioner/s

Versus

1. The Union of India through Commissioner of Customs, Central Revenue Building , Birchand Patel Path, Patna, Bihar.
2. The Commissioner of Customs, Central Revenue Building, Birchand Patel Path, Patna, Bihar.
3. The Additional Commissioner of Customs, Central Revenue Building, Birchand Patel Path, Patna, Bihar.
4. The Assistant Commissioner of Customs, Preventive (Headquarters), District- Patna, Bihar.
5. The Superintendent of Customs, Preventive Cum Seizure Supervisor, District- Patna, Bihar.
6. The Inspector Customs (Preventive) Cum Seizing Officer, Customs(Preventive) Headquarters, District- Patna, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajeev Shekhar, Advocate Mr. Anand Bhushan, Advocate Mr. R.K. Singh, Advocate
For the Respondent/s	:	Mr. S.D.Sanjay (ADSG) Mr. Ram Anurag Singh, CGC

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 07-01-2020

The petitioners have approached this Court under the writ jurisdiction for a direction to the Customs Department to release the goods seized by the Customs Department from the Railway Brake-Van at Hajipur. The goods are shoes of foreign origin. The petitioners claim to have purchased it from Dimapur on a valid cash memo. The seizure was made on the inputs to the Customs Department about transportation of shoes of foreign origin.



According to the records of the case, a notice was sent to the consignor *viz.* the petitioners but it was returned unserved. Later, the petitioners claimed the ownership of the shoes and applied before the Customs Department for release of the same.

This writ petition has been structured on the ground that no notice was sent to the petitioners or even if it was sent, it was not served upon them and therefore if there has not been any sequel action within six months of the seizure, in accordance with the provisions of the Customs Act and in the absence of any other claimant for the seized consignment, the seized goods ought to be released in favour of the claimant.

It is on this ground that the petitioner has approached this Court for a direction to the Customs Department to release the goods which has been lying in the customs office for several months by now.

As opposed to the aforesaid contentions raised on behalf of the petitioners, it has been argued on behalf of the Customs Department by the learned Additional Solicitor General of India that the search and seizure was made on secret information about transportation of foreign goods/shoes. Initially, the authenticity of the consignor and consignee could not be ascertained. The Customs Department thereafter in its wisdom interacted and



communicated with its counterpart in Nagaland and tried to find out the identity of the shops from where purchases are claimed to have been made by the petitioners. The shop owners were contacted, who categorically stated before the Customs authorities that they never deal in shoes of foreign origin; rather they sell shoes manufactured in India. Even the cash memos which were presented by the petitioners and a copy of which was sent to Dimapur for the confirmation of its authenticity was found to be fake/ingenuine and not issued by such shop owners. The statement of the shop owners were also recorded under Section 60 of the Customs Act which are very clear in its import that they had never sold the goods seized to the petitioners.

In such an event, it has been urged on behalf of the Customs Department that the goods cannot be released in favour of the petitioners. More so, if it is found that it is smuggled goods and has been brought in country without paying the custom duty.

Apart from this, what has been harped upon by the counsel for the Customs Department is that now the matter is before the adjudicating authority which had issued summons to the petitioners about which the petitioners are aware of.



After the aforesaid points were noted, learned counsel for the petitioners deemed it prudent to seek liberty to move before the adjudicating authority for release of goods.

In case the petitioners approach the Customs authorities and satisfy them that they are the rightful claimants of the seized goods and produce documents in support of their claim, the same shall be considered by the Custom authorities and a reasoned order shall be passed within a period of four weeks of the receipt of such representation to be filed by the petitioner within a period of one week of the passing of this order.

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

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.01.2020
Transmission Date	

