

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8129 of 2020

Govind and Company having its principal place of business at 2nd Floor, Shankar Commercial Complex, T.R.P. Road, Fancy Bazar, Guwahati Kamrup Matro Politan, Assam, 781001, through its Proprietor Govind Sarda, aged about 25 years, Male, Son of Daulal Sarda, Resident of Uttarayan Villa, B R P Road, Kumar Para, P.S. Bharauli Mukh, District Guwahati.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Government of India, New Delhi.
2. The Chairman, Central Board of Excise and Customs, North Block, Secretariat Building, New Delhi.
3. The Chief Vigilance Officer, Central Board of Excise and Customs, New Delhi.
4. The Commissioner of Customs (Preventive), Head Quarters, 5th Floor, Central Revenue Building, Birchand Patel Path, Patna.
5. The Joint Commissioner (Preventive) cum Adjudicating Authority, Office of the Commissioner of Customs (Preventive), HQRS, 5th Floor, Central Revenue Building, Birchand Patel Path, Patna.
6. Sri Ashutosh Sharma father's name not known to the petitioner at present posted as Joint Commissioner (Preventive), cum Adjudicating Authority, Office of the Commissioner of Customs (Preventive), HQRS, 5th Floor, Central Revenue Building, Birchand Patel Path, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan, Advocate
For the Respondent/s	:	Mr. Dr. Krishna Nandan Singh, Sr. Advocate with Mr. Anshuman Singh, Senior SC, Customs

CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date : 15-11-2021

Heard the parties.

The petitioner is aggrieved by order passed by the Joint
Commissioner, Customs (P) Head Quarters, Patna whereby a



condition has been imposed on the petitioner for furnishing Bank Guarantee/ Cash Security covering 70 % of the value of the Betel Nuts for release of the goods provisionally. His grievance is that this order is arbitrary inasmuch as the same authority has passed orders in other cases imposing much lesser amount as a condition for release of goods.

At the outset, we have asked the learned counsel for the petitioner as to why he has not availed the remedy available under the Customs Act. He submits that the impugned order is wholly unsustainable, hence the petitioner has invoked the writ jurisdiction of this Court. We are of the view that the grounds raised before us can also be raised before the appellate authority, who is bound to decide as per law.

We, thus, propose to give liberty to the petitioner to file appeal before the appellant authority.

In the facts and circumstances of the case, we dispose off the writ petition with liberty to the petitioner to file an appeal before the appellate authority within two weeks from today. In case there is bar of limitation, the petitioner shall be entitled to file an application for condonation thereof, which shall be considered by the appellate authority sympathetically.



In the eventuality, an appeal is filed by the petitioner, the appellate authority, keeping in view the time which has lapsed since the impugned order was passed, it is hereby directed to take a decision on the appeal of the petitioner, in accordance with law, at the earliest, in any case not later than two months.

Mr. Singh, learned counsel for the respondents customs department has stood by all the pleadings submitted in the counter affidavit; filed on behalf of the respondents no. 4 and 5.

The petition stands disposed off.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

P. Kumar

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

