

13.07.2022

Sl no. 11

Ct no. 2

P.M.

WPA 22713 OF 2014

M/s. Bhawani Metal Corporation & Anr.

- Vs -

The Union of India & Ors.

Mr. Lal Mohan Hajra,
Mr. Somesh Panja,
Ms. Anuradha Hazra,
Ms. Moutusi Hazra

... for the petitioners

Mr. Bhaskar Prosad Banerjee,
Ms. Manasi Mukherjee,
Mr. Tapan Bhanja

... for customs authority.

Heard learned advocates appearing for the parties.

By this writ petition petitioners have made a prayer, inter alia, for the release of betel nuts in question which was brought from Bangladesh on 1st September, 2013 and petitioner has also prayed for quashing of the impugned show-cause notice dated 30th April, 2014 issued by the Commissioner of Customs (Preventive), West Bengal, Kolkata.

Mr. Banerjee, learned advocate appearing for the respondent submits that relating to betel nuts in question proceeding has been culminated in final adjudication by order dated 1st August, 2014 which according to the petitioners was an appellable order and the petitioner has not gone to statutory appeal against the aforesaid impugned adjudication order.

Mr. Banerjee further files a report pursuant to the order of this Court dated 14th June, 2022 asking the officer concerned to file a report about the condition of betel nuts in question since it is perishable goods lying unreleased since 2013, the said report has been filed by the Assistant Commissioner (Customs) Petrapole Land Customs Station, dated 11th July, 2022 which may be kept with the record and relevant portion of the said report is quoted hereunder :

“The goods covered under the Bill of Entry No. 4630/16/2013 dated 01.09.13 was Betel Nuts of Quantity 79.040 MTS loaded in 05 (Five) number of Indian trucks (bearing Regn. Nos. WB-57/0371, WB-59/1434, WB-25A/7526, WB-25/1881 & WB-57A/0871) were parked in the CWC premises since long time from the date of entry of the subject consignment i.e. from Sept. 2013. Betel Nuts itself is perishable in nature and after lapse of long time from 2013 to 2022, the goods were totally damaged as they were exposed to open environment and have suffered adverse weather calamities. Again, in the year 2020, due to the cyclonic storm ‘Amphan’ the damaged/destroyed residual goods which were loaded on those trucks were completely ruined. The

remnant goods on the above mentioned trucks were still present till the beginning of the year 2022 in the premises of ICP Petrapole. In the meanwhile, the LPAI for the purpose of construction of new building informed this office that the said vehicles needed to be removed. Accordingly, after discussion, the LPAI Authorities made an arrangement for removal of the said trucks to the premises of Petrapole Circle Office in the month of February, 2022. As on date, the above mentioned trucks are lying in the backyard of Petrapole Circle Office.”

On perusal of the aforesaid report of the Assessing Officer concerned, it appears that the betel nut in question has been totally damaged and even if it is released it will be highly harmful for consumption of the human being. Furthermore since final adjudication order has already been passed relating to the betel nuts in question and it is appellable under the statute before the Tribunal which the petitioner has not availed and wants this writ court to act for the appellate authority for the aforesaid adjudication order.

Considering the facts and circumstances of the case as appears from record and submission of the parties no relief can be granted in this writ petition

except granting liberty to the petitioner to avail the alternative remedy by way of an appeal against the adjudication order in question and to take legal recourse against the damaged betel nuts in accordance with law.

With this observation this writ petition WPA 22713 of 2014 stands disposed of.

(Md. Nizamuddin, J.)