

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19500 of 2019

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M/s K. K. Trading and Co., Main Road, Jogbani through its Proprietor
Kundan Kumar Poddar, Aged about 37 Years, Male, S/o Shri Indradeo
Poddar, Resident of Ward No. 4, Jogbani, Haripur, Araria, Bihar- 854328

... .. Petitioner/s

Versus

1. Union of India through the Secretary (Revenue), Ministry of Finance,
Government of India, North Block, New Delhi- 110001.
2. Union of India through the Commerce Secretary, Ministry of Commerce and
Industry, Government of India, Udyog Bhawan, New Delhi- 110107.
3. The Director General Of Foreign Trade, Udyog Bhawan, New Delhi-
110107.
4. The Commissioner of Customs (Prev), Patna, 5th Floor, Kendriya Rajaswa
Bhawan, Bir Chand Patel Path, Patna- 800001.
5. The Additional Commissioner of Customs (Prev), 4th Floor, Kendriya
Rajaswa Bhawan, Bir Chand Patel Path, Patna- 800001.
6. The Deputy/Assistant Commissioner, Land Customs Station, Jogbani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Amit Pandey, Advocate

For the Respondent/s : Dr. K.N.Singh, A.S.G.
Mr. Anshuman Singh, Sr. SC, Customs.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-01-2023

Petitioner has prayed for the following
relief(s):-

“i) To issue a writ in the nature of certiorari for
quashing the Order-in-Original No. 16-
Cus/ADC/JBN/2019-20 dated 09.07.2019 passed by
the Additional Commissioner of Customs(Prev),



Patna whereby and whereunder Fresh Ginger as evaluated at Rs. 93,26,381/- imported by the petitioner from Nepal have been ordered for confiscation under Section 111(d) of the Customs Act, 1962 and a redemption fine of Rs. 15,00,000/- have been imposed upon the petitioner as the goods have already been cleared for home consumption and also a penalty of Rs. 9,00,000/- have been imposed upon the petitioner under Section 112(a) of the Customs Act, 1962, in utter disregard to the transitional provisions of the Foreign Trade Policy 2015-20 and the Indo-Nepal Treaty on Trade, and as such without authority of law; And/or

ii) To grant any other relief or reliefs to which the petitioners is entitled in the facts and circumstances of the case.”

After the matter was heard for some time, learned counsel for the petitioner seeks permission to take recourse to an alternative remedy of preferring an appeal.

Prayer allowed.

He may do so within a period of four weeks.

As and when any such appeal is preferred by the petitioner within the aforesaid period, the issue of limitation shall not come in the way and the appeal shall be heard on merits, to be decided within a period of three months from the date of its filing.



We only hope and expect the appropriate authority to consider and decide the appeal on its own merit and with reasonable dispatch.

We clarify that we have not expressed any opinion on facts and law. All issues are left open.

Learned counsel for the parties undertake not to take any unnecessary adjournment in such proceedings.

The present petition stands disposed of with the liberty aforesaid.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	25.01.2023
Transmission Date	

