

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2144 of 2024

Sunil Kumar

... .. Petitioner/s

Versus

The Union of India

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Saket Gupta, Adv.
For the Respondent/s	:	Mr.Dr. K.N. Singh, ASG
		Mr. Anshuman Singh, Sr. SC, Custom
		Mr. Prakritita Sharma, AC to ASG 1

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

9 02-08-2024 In the instant petition, petitioner has prayed for the following reliefs :-

“a) Issuance of a writ of certiorari to set aside the letter bearing C. No. GEN/ADJ/JC/103/2022 dated 17.05.2022, issued by the Respondent No. 6 by which the Respondent No. 6 has refused to oblige the release order i.e. Release Order dated 10.01.2022 passed by Respondent No. 3 for release of the goods i.e. Areca Nuts on the ground that the same may not be released till outcome of Appeal preferred by the Respondent Department before Higher Forum.

b) Issuance of a writ of Certiorari to quash the order dated 10.01.2022 passed by the Respondent No. 03 to the extent to which onerous conditions have been imposed for release of Areca Nuts in the following words, “It shall furnish a bank guarantee or a cash security (as decided



by the appellant) to 25% of Rs. 77,52,898/- i.e. the value of the seized areca nuts for the provisional release of 28490 Kgs Dried areca nuts, in question. Upon furnishing the bank guarantee/cash security, as directed above, the goods shall forthwith be released not later than 10 days from the date of furnishing security.”

2. The petitioner’s goods relating to Dried Areca Nuts (second quality), which was in transit from Asam to Delhi and it was intercepted by the Customs authorities and seized the vehicle along with goods. Resultantly, petitioner has invoked statutory remedy in which there was favourable order insofar as release of the subject matter of goods with a rider that he has to furnish bank guarantee.

3. Feeling aggrieved by the 3rd respondent’s decision dated 10.01.2022, Customs department preferred appeal before the Customs Excise & Service Tax Tribunal (in short ‘CESTAT’). Departmental litigation was disposed on 24.01.2024 while affirming the 3rd respondent’s decision dated 10.01.2022.

4. In this backdrop, petitioner has presented this petition to modify the order dated 10.01.2022 insofar as imposition of condition for pre-release of seized Areca nuts. The same cannot be entertained at this belated stage. Further, it is to be noticed that petitioner has not filed cross appeal/petition



before the CESTAT so as to examine the grievance of the petitioner. In other words, he has accepted the 3rd respondent's decision dated 10.01.2022 at the earliest point of time.

5. Accordingly, present petition stands disposed of. In the event of petitioner approaching the concerned authority for the purpose of release of the subject matter of Areca nuts, the concerned authority is hereby requested to follow all relevant procedure and release the same at the earliest if petitioner fulfills the relevant conditions stipulated in the order dated 10.01.2022 of the respondent no. 3. If petitioner furnishes bank guarantee and if the bank guarantee fetches interest, the same shall be disbursed by the concerned authority in the event of petitioner succeeding in future litigation. The concerned respondent authority is hereby requested to implement the orders of respondent no. 3 read with the order of CESTAT dated 24.01.2024 at the earliest.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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