IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8997 of 2015

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M/s Bengal Auto Enrerpries Son of Late Moinuddin resident of near IOC Gate, Main Road Raxaul Police Station Raxaul, District - East Champaran.

... ... Petitioner/s

Versus

1. The Union Of India
2. Additional Commissioner of Customs, Headquarter, Birchand Patel Path, Patna.
3. Commissioner Customs Appeal, Central Excise and Services Tax, Patna.
4. Customs, Excise and Service Tax Appellate Tribunal, 169, AJC Bose Road, 7th Floor, Bamboo Villa, Ko
5. Assistant Commissioner Disposal, Customs Headquarter, Birchand Patel Path, Patna.
6. Assistant Commissioner Customs P Division, Motihari, East Champaran.
7. Godown Inchage Customs P Division, Motihari, East Champaran.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Md. Shahnawaz Ali, Advocate
For the Respondent/s	:	Dr. K.N. Singh, ASG
		Mr. Anshuman Singh, Sr. SG, Custom
		Mr. Devansh Shankar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 29-08-2024

In the instant writ petition, petitioner has prayed for the following relief/reliefs:

> *"(i) An appropriate writ, order or direction quashing the letter dated 02.12.2014 (Annexure '7') and the letter dated 26.09.2014 (Annexure '8') holding the same illegal, arbitrary and malafide, be issued.*

(ii) An appropriate writ, order or direction commanding the respondents especially the respondent Assistant Commissioner (Disposal) and Assistant Commissioner Customs (P) to either return the seized goods or to pay the market value of the same at Rs.11,50,000/= with interest thereon with effect from the date of seizure and within a time frame, be issued.

(iii) Further, prays for issuance of any other appropriate writ/writs, order/orders, direction/directions and/or relief/reliefs which the petitioner is entitled to in the facts and circumstances of the case."

2. On 25.07.2024 and 01.08.2024, following orders were passed:

"Date : 25.07.2024

From perusal of the records, it is evident that petitioner is of the view that seized Lead Zink Dross is worth about Rs. 11,50,000/-, whereas the seized goods were sold at Rs. 25,479/-. In support of claiming that the goods worth about Rs.11,50,000/-, no material has been placed on record to the extent that petitioner had purchased Lead Zink Dross from a particular person or a firm for a sum of Rs. 11,50,000/- after paying all necessary tax with the with concerned jurisdiction Tax

Department so as to draw inference that goods is worth about Rs. 11,50,000/- on the other hand, perusal of Annexure-F to the counter affidavit Invoice detail is Rs. 87,191/- including CST at 4 % a sum of Rs. 3353/-. In other words, claim of the petitioner contradicts his own Invoice dated 09.09.11, Invoice No. 6. The petitioner has also not appraised this court to the extent that purchaser is Md. Arsad to the effect that he has VAT TIN Number and other related registration number and all so as to find out genuineness of the purchaser. If these materials are not placed on record before the next date of hearing, we will proceed to dismiss the present petition.

Re-list this matter on 01.08.2024."

"Date : 01.08.2024

Today, learned counsel for the petitioner on instructions giving up the claim of Rs. 11,50,000/-. He is happy if the payment is made with reference to invoice a sum of Rs.87,191/- including CST at 4 % a sum of Rs.3353/- instead of Rs.25,479/- (auction price).

2. The respondents before determining a particular value of the seized goods like in the present case Lead Zink Dross, it is a some technical verification is required to determine the value as on the date of

Committee decided that its value is around a sum of Rs.25,000/- and odd.

3. Perusal of the records, there is no material information to the extent that whether was there any participation of an expert/technical person insofar as determining the value of the Lead Zink Dross or not.

4. Respondents are hereby directed to produce a copy of the valuation report on the next date of hearing.

5. Re-list this matter on 22.08.2024."

3. Limited issue is whether petitioner is entitled to a sum of Rs. 87,191/- including CST at 4 % and sum of Rs. 3353/- instead of Rs. 25,479/-, which was the auctioned price. In order to ascertain how the auctioned price has been arrived at by the concerned official respondent, we have directed the respondents to furnish relevant documents. They have furnished the documents by means of second supplementary affidavit.

4. Perusal of the related valuation of goods - documents, it is evident that valuation of Lead Zink Dross is not assessed properly in the light of Invoice, therefore, valuation at Rs. 25,479/- fixed by the concerned officials is arbitrary and contrary to Invoice valuation of Rs. 87,191/- including CST at 4% of sum of Rs.

3353/-. There is no reference to invoice price and no analysis as to how seized material value has been assigned at Rs. 25,479/-

5. In the light of these facts and circumstances, petitioner is entitled to balance of amount from the year 2014 with reference to Invoice amount of Rs. 87,191/- as against valuation and auction price fixed by the respondent authority at Rs. 25,479/- and it was paid on 25.09.2014. The respondents are hereby directed to pay the balance amount to the petitioner within a period of three months from the date of receipt of this order along with interest at 6% *per annum* w.e.f 25.09.2014.

6. Accordingly, present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.09.2024
Transmission Date	NA