BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : **28.04.2025**

**PRONOUNCED ON : 03.06.2025**

**CORAM:**

THE HONOURABLE **MR.JUSTICE VIVEK KUMAR SINGH**

**W.P.(MD)Nos.27895 & 27615 of 2024**
**and**
**W.M.P.(MD)No.23656 of 2024**

**In W.P.No.27895 of 2024:**-

M/s.Shahnaz Commodities International Pvt. Ltd.,
715, 7th Street, Spencer Plaza,
Suite 652, Mount Road,
Chennai-600 002. ... Petitioner

Vs.

1.The Chairman,
Central Board of Indirect Taxes & Customs,
North Block,
New Delhi – 110 001.

2.The Principal Director General,
O/o.Directorate of Revenue Intelligence,
7th Floor, D-Block, I.P.Bhawan,
I.P. Estate,
New Delhi – 110 002.

3.The Additional Director General,
O/o. Directorate of Revenue Intelligence,
Zonal Unit – Lucknow,
2/32, Vishal Khand, Gomti Nagar,
Lucknow – 226 010.

4.The Assistant Director,
O/o. Directorate of Revenue Intelligence,
Zonal Unit – Lucknow,
2/32, Vishal Khand, Gomti Nagar,
Lucknow – 226 010.

5.The Commissioner of Customs,
Custom House,
New Harbour Estate,
Tuticorin – 628 004. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of proceedings of the original impugned orders passed by the respondents No.3 & 4 in Detention Memo dated 22.09.2024, in File No.DRI/LZU/C1-26/Int-28/2024 the seizure Memo dated 16.11.2024 in File No.DRI/LZU/CI-26/Int.28/F/2024/1861-1868 and the summon dated 18.11.2024 in F.No.DRI/LZU/CI-26/Int.28/F/2024/1874, being the proceedings initiated by the third and fourth respondents during the pendency of this proceeding and to quash the same with a direction to the respondents 1 to 4 to handover the documents to the fifth respondent to process the documents as per the related provisions of the Customs Act, Notifications, Rules, Circulars and Instructions or subject to such terms and conditions as may be specified by this Court and also to issue a storage, detention cum demurrage waiver certificate with respect to the seized goods in terms of the provisions of the Handling of Cargo in Customs House Area Regulation, 2009 and the Sea Cargo Manifest and Transshipment Regulations, 2018 respectively for the period under detention/seizure.

For Petitioner : Mr.Vijay Narayanan, Senior counsel
for Mr.T.Bala Krishnan

For Respondent : Mr.AR.L.Sundareshan, ASGI
Nos.1 to 4 Asst. by Mr.K.Govindarajan, DSGI

For Respondent-5 : Mr.N.Dilip Kumar

**<u>In W.P.No.27615 of 2024:</u>**-

M/s.Shahnaz Commodities International Pvt.
Ltd.,
rep. by its Director Mr.A.Sithikgani
715, 7th Street, Spencer Plaza,
Suite 652, Mount Road,
Chennai-600 002. ... Petitioner

Vs.

1.The Additional Director General,
O/o. Directorate of Revenue Intelligence,
Zonal Unit – Lucknow,
2/32, Vishal Khand, Gomti Nagar,
Lucknow – 226 010.

2.The Assistant Director,
O/o. Directorate of Revenue Intelligence,
Zonal Unit – Lucknow,
2/32, Vishal Khand, Gomti Nagar,
Lucknow – 226 010.

3.The Commissioner of Customs,
Custom House,
New Harbour Estate,
Tuticorin – 628 004. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 & 2 herein, to cause release of the goods covered under the 4502344 dated 15.07.2024 and 4502923 dated 15.07.2024 based on the test report of CRCL, New Delhi supra and also on the representation dated 16.10.2024 and the remaining goods covered under bills of entry No.5576076 to 5576078 dated 13.09.2024 & 5599773, 5616559, 5597675 dated 14.09.2024 and cause testing the same by the CRCL, New Delhi and to take decision on the release of the imported goods in terms of the Test Results or subject to such terms and conditions as may be specified by this Court and also issue a storage, detention cum demurrage waiver certificate with respect of the seized goods in terms of the provisions of the Handling of Cargo in Customs House Area Regulation, 2009 and the Sea Cargo Manifest and Transshipment Regulations, 2018 respectively.

For Petitioner : Mr.Vijay Narayanan, Senior counsel
for Mr.T.Bala Krishnan

For Respondent Nos.1 & 2 : Mr.AR.L.Sundareshan, ASGI
Asst. by Mr.K.Govindarajan, DSGI

For Respondent-3 : Mr.N.Dilip Kumar

**COMMON ORDER**

Challenging the proceedings of the original impugned orders passed by the third and fourth respondents in Detention Memo dated 22.09.2024 in File No.DRI/LZU/C1-26/Int-28/2024; the seizure Memo dated 16.11.2024 in File No.DRI/LZU/CI-26/Int.28/F/2024/1861-1868 and the summon dated 18.11.2024 in F.No.DRI/LZU/CI-26/Int. 28/F/2024/1874 and consequently to direct the respondents 1 to 4 to handover the documents to the fifth respondent to process the documents as per the related provisions of the Customs Act, Notifications, Rules, Circulars and Instructions or subject to such terms and conditions as may be specified by this Court and also to issue a storage, detention cum demurrage waiver certificate with respect to the seized goods in terms of the provisions of the Handling of Cargo in Customs House Area Regulation, 2009 and the Sea Cargo Manifest and Transshipment Regulations, 2018 respectively for the period under detention/seizure, the petitioner has preferred the present Writ Petition in W.P.No.27895 of 2024.

2. The petitioner in W.P.No.27615 of 2024, seeks a direction to the respondents 1 & 2 herein, to cause release of the goods covered under the 4502344 dated 15.07.2024 and 4502923 dated 15.07.2024 based on the test report of CRCL, New Delhi supra and also on the representation dated 16.10.2024 and the remaining goods covered under bills of entry No.5576076 to 5576078 dated 13.09.2024 & 5599773, 5616559, 5597675 dated 14.09.2024 and cause testing the same by the CRCL, New Delhi and to take decision on the release of the imported goods in terms of the Test Results or subject to such terms and conditions as may be specified by this Court and also issue a storage, detention cum demurrage waiver certificate with respect of the seized goods in terms of the provisions of the Handling of Cargo in Customs House Area Regulation, 2009 and the Sea Cargo Manifest and Transshipment Regulations, 2018 respectively.

3. Heard Mr.Vijay Narayanan, learned Senior counsel for the petitioner and Mr.AR.L.Sundareshan, learned Additional Solicitor General of India appearing on behalf of the respondents/Chairman, Central Board of Indirect Taxes & Customs, New Delhi; Principal Director

General, DRI, New Delhi; Additional Director General [ADG] & Assistant Director [AD], DRI, New Delhi, as well as Mr.N.Dilip Kumar, learned counsel for the respondent/Commissioner of Customs, Tuticorin.

4. Since the issue involved in both the Writ Petitions are one and the same, they are taken up and heard together and disposed of by way of a common order.

5. The brief facts which leads to the filing of the present Writ Petitions are as follows:-

5.1. The petitioner firm is in the business of import and local sale of betel nut products such as roasted betel nut, menthol scented supari etc., from the year 2020, which has registered with the GST authorities bearing GST Registration No.33ABFCS0068P1Z1 and has been allotted with Import Export Code by the office of the Ministry of Commerce and Industry through its Zonal Director of Foreign Trade, Chennai in No.ABFS0068P.

5.2. The petitioner firm have filed bills of entry Nos.4502344 dated 15.07.2024 & 4502923 dated 15.07.2024 for the import of roasted areca nuts split on the strength of the Advance Ruling No. ADV Ruling. CAAR/MUM/ARC/44 45 & 46/2022 dated 07.12.2022, which have been duly assessed by the respondent/Commissioner of Customs, Tuticorin on first check basis by giving suitable examination order, followed by examination of goods by the Proper Officers of Customs in charge of examination and found that the declared details of the goods were tallied. They also drawn samples from all the consignments and referred the same to the Central Revenues Control Laboratory (for brevity "CRCL"), New Delhi with Test Memo queries. Based on the examination findings and the test report from the CRCL, New Delhi, the respondent/Commissioner of Customs, Tuticorin assessed and released the consignments covered under the bills of entry Nos.4502344 dated 15.07.2024 & 4502923 dated 15.07.2024 on 11.09.2024. Despite the due process of assessment, examination, test and final clearance from the Customs Custody by the Proper officers belonging to the respondent/Commissioner of Customs, Tuticorin, the respondent/AD, DRI, Lucknow under the directions of the respondent/ADG, DRI, Lucknow, intercepted the consignments on its enroute to the petitioner's buyers destination at Nagpur. For which, the petitioner made a detailed representation on 29.09.2024, explaining the circumstances leading to issuance of Advance Ruling No.CAAR/MUM/ARC/44 -45&46/2022 dated 07.12.2022 in their favour, classifying the roasted betel nuts under the Tariff item 2008 1920 and the due process followed in the clearance of the intercepted goods and therefore, the petitioner sought for clearance of the impugned goods intercepted by the respondents herein/ ADG & AD, DRI, Lucknow. In the meanwhile, the petitioner firm has also filed seven more bills of entry viz., 5576076 to 5576078 dated 13.09.2024; 5597675, 5599773 & 5616559 dated 14.09.2024; and 5655457 dated 17.09.2024 with respect to the consignments imported from the supplier of the very same goods. The said bills of entry were put on hold by the respondent/Commissioner of Customs, Tuticorin on the instructions of the respondents/ ADG & AD, DRI, Lucknow on 18.09.2024.

5.3. As more than 60 days had elapsed from the date of filing of the bills of entry and the detention of the goods for the purpose of investigation, which had caused absolute hardship to the petitioner on account of detention charge to the tune of Rs.6 lakhs per month per container which paved way to massive loss of Rs.1,80,00,000/- per month of continued detention for 30 detained containers and in addition, the firm is liable to pay the storage charges to a sum of Rs.36 lakhs for 36 containers to the Container Freight Station (CFS), where it is currently lying.

5.4. Inspite of clarifying the points with facts and reasons by the petitioner and request for release of goods covered under the bills of entry stated above, the respondents has detained the goods and also affected seizure on 16.11.2024 which has been followed by summon on 18.11.2024, which are in complete derogation of the powers conferred under the Customs Act, 1962 [hereinafter referred to as "Act"] r/w. relevant Notifications, Rules, Circulars and instructions and also, it is a well settled proposition of law regarding reference of samples to the non accredited labs and the limitations of the respondents/ ADG & AD, DRI, Lucknow in expropriating the powers and duties of the respondent/Commissioner of Customs, Tuticorin in the name of investigation.

6. Aggrieved over the detention, seizure and summon proceedings, the petitioner has come forward with the present Writ Petition in regard to the relief sought for in the prayer.

7. The learned Senior counsel for the petitioner submitted that the petitioner firm has imported two consignments of roasted areca nuts covered under the Bills of Entry Nos.4502433 dated 15.07.2024 and 4502923 dated 15.07.2024 during the course of their business. These consignments were duly assessed and cleared for home consumption by the Proper Officers of Customs and subsequently sold to domestic buyers. While that being so, during its transit to the buyer's destination,

the Directorate of Revenue Intelligence (DRI), Lucknow has intercepted and subsequently detained the goods on 22.09.2024 on mere suspicion that these goods were wrongly classified under the Customs Tariff Heading (CTH) 2008 1920 as roasted areca nuts instead of CTH 0802 090 as raw areca nut. Subsequent to this detention, seven other consignments covered under the bills of entry Nos.5576076 to 5576078, 5599773, 5616559, 5597675, 5655457 dated 13.09.2024, 14.09.2024, 17.09.2024 respectively were also seized on 16.11.2024 by the DRI, Lucknow before the same was processed by the Tuticorin Customs. Thereafter, the DRI, Lucknow has issued summons on 18.11.2024 for petitioner's appearance.

8. He contended that the respondents/ ADG & AD, DRI, Lucknow are not justified in detaining the goods that were already cleared from customs area and subsequently sold to the domestic buyers as the goods were properly assessed, examined and tested for its description and quantity etc., as per the declaration by the Customs Authorities at Tuticorin Customs.  He stressed upon the fact that the goods were tested by their own and competent lab viz., CRCL, New Delhi as per the Central Manual of the Chemical Laboratories in the Custom Houses and the CBIC Circular No.46/2020 dated 15.10.2020.

9. In furtherance, he argued that the respondents/ ADG & AD, DRI, Lucknow acted tyrannically in detaining the subsequent shipments of roasted areca nuts imported by the petitioner without any rational reasons and also have referred the drawn samples from the subsequent consignments to ICAR-CPCRI, Kasargod inspite of the letter dated 30.07.2024 from the CRCL, New Delhi, wherein it has directed to send the samples to them for the reason that it has the requisite facility, expertise and methods to test areca nut products, including roasted areca nuts. He submitted that due to inordinate delay and wrong test report as the import item as other than the roasted areca nut of the ICAR-CPCRI, Kasargod had caused huge loss to the petitioner. He highlighted that even the respondents have powers to refer the samples to any lab, the test report of the ICAR-CPCRI is invalid and unacceptable as it is not an NABL accredited lab as per the email confirmation dated 23.12.2024 received by the petitioner. In support of his contention, he cited the decisions of the various appellate forums, including the Hon'ble Supreme Court, wherein it was held that the test report issued by a non accredited lab is not reliable and the detention/seizure based on such report are liable to be quashed, which are as under:

***a)Laltanpuii Vs. Commissioner of Cus. (Preventive), NER, Shillong reported in 2022 (382) ELT 716 (Tri-Kol);***

***b)C.C. (Preventive), NER Region, Shillong Vs. Laltanpuii reported in 2022 (382) ELT 592 [Meghalaya High Court]; and***

***c)Commissioner of Customs (Preventive) Vs. Laltanpuii reported in 2022 (382) ELT 588 (SC) [SLP Dismissed].***

10. It is predominant to note that to test the roasted betel nut, the methods followed by the ICAR-CPCRI for determining the moisture content and the ash content are patently wrong which are the vital parameters to ascertain whether the item has undergone the process of roasting. Moreover, it is relevant to point out that the ICAR-CPCRI used AOAC 925.09 meant for flour instead of test method AOAC 934.06 meant for dried fruit which includes areca nut and likewise, ICAR-CPCRI used AOAC 938.08 meant for sea food to determine the ash content present in roasted areca nuts and vehemently contended that on these grounds, ICAR-CPCRI test report informing the subject item as other than roasted areca nuts, is unacceptable and invalid. Adding his arguments, he referred that the test report of ICAR-CPCRI is self contradictory as it stated the colour of the nuts as brown but at the same time concluded that the nuts did not undergo roasting and also cited words such as non categorical, can be presumed, may not and like which paved the way for the report to be unreliable.

11. He drew the attention of this Court to the recent decision of the ***First Bench of this Court in W.A.No.3647 & 3648 of 2024 dated 04.03.2025***, wherein it has held that if the moisture content is below 10% and imported in terms of advance ruling that has attained finality, then there is no reason to state that the imported item is raw areca nut. In the light of the aforesaid judgment, the moisture content reported in the impugned ICAR-CPCRI test report ranges from 4.15% to 8.12% which reveals that the goods under seizure covered under seven bills of entry, are undoubtedly roasted betel nuts only.

12. He emphasized that the Tribunal in the case of ***Laltanpuii Vs. CC (Preventive), NET Region, Shillong reported in 2022 (382) (382) ELT 716 (Tr-Kol)*** quashed the detention / seizure based on invalid test reports as illegal and the same was upheld by the High Court of Meghalaya and the Hon'ble Supreme Court. Likewise, the Hon'ble Patna High Court in the case of ***Ayesha Exports Vs. Union of India reported in 2000 (371) ELT 353 (Pat).,*** quashed the seizure of goods affected based on the test report issued by a non accredited lab.

13. The learned Senior counsel expressed the hardships caused to the petitioner due to the illegal and arbitrary acts of the respondents/

ADG & AD, DRI, Lucknow such as reference of the samples to a non accredited lab after lapse of substantial time which shows their ill intention and huge loss caused for container storage charges at CFS, shipping liner charges and also the risk of deterioration of the cargo due to prolonged detention. At this stage, he pointed out that more than 221 days have lapsed after inception of the subject matter and at the instance of these petitions, the respondents have revealed the test report on which basis, the cargo was seized and summoned.

14. He also referred to the decision of this Court in the case of ***Commissioner of Customs, Chennai-2 Vs. Shahnaz Commodities International Pvt. Ltd.,*** reported in ***2023 (386) Elt 214 (Mad.)*** upheld the ruling of the CAAR and categorically held that the roasted areca nuts are rightly classified under the CTH 2008 1920, being a specific heading repeatedly upheld by the Hon'ble Supreme Court which has been followed by the Calcutta High Court in the case of ***Commissioner of Customs (Port), Custom House, Kolkata Vs. Shahnaz Commodities International Pvt. Ltd., in Custa/9/2023 in IA.No.GA/2/2023 dated 30.08.2024*** which was also accepted by the Government vide its Office Memorandum No.276/400/2023-CX.SA dated 19.02.2024 and hence attained finality.

15. While summing up his arguments, the learned Senior counsel prayed this Court to take into consideration of the aforesaid facts and allow the petitions by quashing the detention dated 22.09.2024, seizure memo dated 16.11.2024 and summons dated 18.11.2024 and ordering unconditional release of the detained goods with a direction to hand over the documents to the jurisdictional customs to release the goods on simple test bond taking into account the inordinate delay caused by the respondents 3 & 4 and to make sure that no storage, detention and demurrage charges are levied and collected by CFS and shipping liners from the petitioner.

16. Per contra, the learned Additional Solicitor General of India contented that the characteristics of the detained goods whether it is areca nut or roasted nut are all matters of disputed questions of fact which could be finally adjudicated only after a full fledged enquiry is conducted under the provisions of the Act by the respondents as contemplated under Section 124 and 28 of the Act and the order of adjudication would be passed by following due process of law.

17. He contended that the samples have been tested by CRCL, New Delhi and hence, there cannot be any further proceedings is misconceived and untenable, as the tested goods at CRCL and the transported and seized enroute goods are one and the same is also a disputed question of fact and the detained enroute samples were sent for testing to the Central Plant Protection Crops Research Institute [CPCRI], Kerala Laboratory by the respondent/AD, DRI, Lucknow and report dated 12.11.2024 has been received that the areca nut was only partially heated and not roasted and after sun dried, it has been subjected to moderate heat treatment only and hence, it is not roasted areca nut as per the report. Therefore, based on the said report and being prima facie satisfied, seizure order dated 16.11.2024 has been issued under Section 110 and summons has been sent on 18.11.2024 under Section 108 of the Act for a full fledged investigation.

18. He brought to the notice of this Court that the areca nut if imported into the Country at a price lesser than the minimum import price of Rs.351/- per kg, is a prohibited good and admittedly, in the present case on hand, the goods have been imported at less than the minimum import price. By importing areca nut under the guise of roasted areca nut, is an attempt made to evade the consequences of

prohibition, imposition of adjudication orders for confiscation, penalty etc., under the provisions of the Act. Moreover, the petitioner is attempting to evade higher rate of customs duty by mis-declaring areca nuts and roasted areca nuts and the approximate customs duty evasion is Rs.33.77 Crores. He vehemently argued that if the petitions are allowed, it is against the policy of the Government not to allow import of areca nut at a price lesser than the MIP and the camouflage of the petitioner would be allowed to be achieved, as against the interest of the farmers of the Country and larger public interest.

19. Furthermore, he submitted that release of the goods by the Customs authorities at the port does not take away the jurisdiction and authority of the DRI to detain the goods enroute and after forming a *prima facie* opinion to seize the goods and initiate proceedings for adjudication with regard to the actual characteristics of the goods which is imported and determine whether they are prohibited goods or free goods and determine the quantum of duty evasion and compute the penalty and for confiscation of the goods.

20. He further highlighted the submissions of the petitioner in regard to advance ruling which has tested the samples placed before it but the same does not automatically apply to all future imports under

the guise of roasted areca nut as the goods which are imported on subsequent dates and declared as roasted areca nuts are actually areca nut or raw areca nut is a question of fact and it is to be noted that the advance ruling does not apply to the future imports. Hence, it is open to the respondents to check the samples of the subsequent imports whether they satisfy the characteristics of roasted areca nut or not.

21. He also continued that the respondents are to be allowed to continue the proceedings and to direct the petitioner to cooperate with the investigation. He urged that if the subject goods are not areca nuts, it would be a case of mis-declaration amounting to smuggling under the provisions of the Act, giving rise to adjudication, confiscation, levy of differential duty, penalty etc.

22. He further contended that specific intelligence information has been received by the respondents that the petitioner under the guise of roasted areca nut is actually importing raw areca nut and insofar as the subject matter of seven bills of entry is concerned, the approximate customs duty evasion is Rs.33.77 Crores and also that, they violated the DGFT notification number 57/2015-2020 dated 14.02.2023 by which areca nuts, whole or split are prohibited goods, if the value of the goods imported is less than Rs.351/- per kg, whereas in the present case on

hand, the goods have been imported at a price less than Rs.351/- and hence, they are prohibited goods which amounts to smuggling under Section 2(39) of the Act and are liable to be confiscated under Section 111 of the Act.

23. He continued his arguments to the effect that the DRI Officers are Proper Officers and are entitled to initiate proceedings against smuggling of goods by issuance of detention orders, seizure orders and show cause notices under the provisions of the Act. In support of his contentions, he cited the decision of the Hon'ble Supreme Court in ***The Commissioner of customs V. Canon India Private Limited in Review petition No.400/2021 in Civil Appeal No.1827/2018 dated 07.11.2024***. He clarified the point that the issue is whether the subject goods are roasted areca nut which will come under ITC HS code 0802 8010 or 2008 1920 and for this, the testing is not restricted to CRCL, New Delhi alone and therefore, the respondent has sent the drawn samples of the subject goods for testing to a premier Government of India Institute, namely, ICAR and the report was given on 12.11.2024 certifying that the sample is not roasted areca nuts, wherein it has been stated that the roasted areca nuts will develop a darker colour due to the process of roasting but the subject goods only undergone moderate degree of heating and as such, there is sufficient

material for the respondents to proceed with the investigation to its logical end.

24. He further submitted that the disputed questions of fact arising in this case cannot be adjudicated and decided by this Court and the detention, seizure and summon proceedings are correct or not can be decided only after completion of a full fledged investigation by the concerned authorities as per the provisions of the Act.

25. In support of his contentions, he drew the attention of this Court to the following decisions of the Hon'ble Supreme Court:

***a)Commissioner of Customs & Central Excise and Others Vs. Charminar Nonwoven Ltd., [2004 STPL 8161 SC];***

***b)Union of India (UOI) Vs. Rubber Products Ltd., [2021 (14) SCC 688]; and***

***c)Union of India (UOI) and Others Vs. Raj Grow Impex LLP and Others [2021 (18) SCC 601].***

26. The learned Additional Solicitor General of India submitted that moreover, there is an effective remedy under the provisions of the Act such as appeal before the Commissioner of Appeals under Section 128 of the Act and against the order of First Appellate Authority, there is

a further appeal before the Tribunal viz., the Central Excise and Service Tax Appellate Tribunal [CESTAT] under Section 129A of the Act and furthermore, a Civil Miscellaneous Appeal before this Court under Section 130 of the Act but however, without availing the remedies available under the Act before the Competent Authorities, the petitioner has straightaway approached this Court by way of the present petitions questioning the detention, seizure and summon which is not maintainable in law. Thus, he submitted that for the aforesaid reasons the petitions are liable to be dismissed.

27. Considered the rival submissions made by the respective learned counsels on either side and also perused the materials available on record.

28. It is seen that the detained goods covered under the Bills of Entry Nos.4502433 dated 15.07.2024 & 4502923 dated 15.07.2024 by the respondents/ ADG & AD, DRI, Lucknow were already assessed and cleared for home consumption by the Proper Officers by the Customs at Tuticorin and sold to domestic buyers. Subsequent to that seven more consignments were sent through bills of entry as stated above. While that being so, the consignments dated 15.07.2024 were detained by the respondents/ ADG & AD, DRI, Lucknow on suspicion at Nagpur and

their samples were drawn and subjected to test at CPCRI. Apart from that, subsequent consignments were also detained by the respondent/Commissioner of Customs, Tuticorin on the instructions of the respondents/ ADG & AD, DRI, Lucknow based on the test report of CPCRI, wherein the report stated that it is not roasted areca nuts but only raw areca nuts which are transported illegally by evading customs duty and wanted a full fledged investigation on the same whether it falls under smuggling. However, the learned counsel for the petitioner drew the attention of this Court that the ash content and moisture content were not done properly by CPCRI and it is a non accredited lab and referred to the decision of this Court in the case of ***Commissioner of Customs, Chennai-2 V. Shahnaz Commodities International Pvt. Ltd.,*** which was also followed by the Calcutta High Court and also highlighted the Laltanpuii's case and Ayesha Exports' case as stated supra.

29. Apparently, it is clear that the consignments were duly assessed and examined by the authorities concerned and sold to buyers. The decisions of the Tribunal, as well as various High Courts and the Hon'ble Supreme Court also supports the present case on hand. It is relevant to note that the essential parameters such as moisture and ash content were not tested properly and also in a non accredited lab which

is unsustainable. Apart from this, it is predominant to note that the consignments were detained for a very long time making serious hardships without any progress for the detention. Considering all these aspects and in the light of the decisions of the various forums, High Courts as well as the Hon'ble Supreme Court as stated supra, the orders impugned in these petitions are liable to be quashed and accordingly, the detention order dated 22.09.2024, seizure memo dated 16.11.2024 and summon dated 18.11.2024 are set aside and the matter is remitted back to the respondent/ Commissioner of Customs, Tuticorin for a fresh consideration and the respondent concerned shall dispose of the subject matter as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.

30. The Writ Petitions stand disposed of with the above directions. Consequently, the connected Miscellaneous Petition is closed if any. There shall be no order as to costs.

**03.06.2025**

NCC : Yes/No
Index : Yes / No
Order : Speaking/ Non Speaking

DP

To

1.The Chairman,
Central Board of Indirect Taxes
& Customs,
North Block,
New Delhi – 110 001.

2.The Principal Director General,
O/o.Directorate of Revenue Intelligence,
7th Floor, D-Block, I.P.Bhawan,
I.P. Estate,
New Delhi – 110 002.

3.The Additional Director General,
O/o. Directorate of Revenue Intelligence,
Zonal Unit – Lucknow,
2/32, Vishal Khand, Gomti Nagar,
Lucknow – 226 010.

4.The Assistant Director,
O/o. Directorate of Revenue Intelligence,
Zonal Unit – Lucknow,
2/32, Vishal Khand, Gomti Nagar,
Lucknow – 226 010.

5.The Commissioner of Customs,
Custom House,
New Harbour Estate,
Tuticorin – 628 004.

**VIVEK KUMAR SINGH, J.**

DP

**ORDER** made in

**W.P.(MD)Nos.27895 & 27615 of 2024**
**and W.M.P.(MD)No.23656 of 2024**

**03.06.2025**