

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Original Side)

Reserved on : 06.01.2026.

Pronounced on : 15 .01.2026

APOT 262 OF 2025

With

IA No. GA 1 of 2025

BISWAJIT ROY BIR

...Appellant

-Vs-

UNION OF INDIA & ORS.

...Respondents

Present:-

Mr. Mainak Bose, Sr. Adv.
Mr. Akshat Agarwal, Adv.
Mr. Piyal Gupta, Adv.
Ms. Doyel Dey, Adv.

...for the appellant

Mr. Samarjit Roy Chaudhury, Adv.
Ms. Rama Chakraborty, Adv.

..... for the Union of India

Mr. Kaushik Dey, Adv.
Mr. Tapan Bhanja, Adv.

..... for the Customs Authority

Coram: THE HON'BLE JUSTICE RAJARSHI BHARADWAJ,
And
THE HON'BLE JUSTICE UDAY KUMAR

Rajarshi Bharadwaj, J:

1. The facts in a nutshell are that the appellant/petitioner, M/s Biswajit Traders, a proprietorship concern with GSTIN 19FRGPB5487N2ZO, engages in trading areca nuts/betel nuts sourced from indigenous Indian farmers and registered suppliers. On April 04, 2025, it issued Tax Invoice No. BT/25-26/002 and e-Way Bill No. 821516556676 for supplying 17,780 kgs of betel nuts to one M/s Podder Agro (GSTIN 07AXUPP6136D1Z4) in New Delhi. The consignment loaded onto goods vehicle NL01AB2625 for domestic transit from Kolkata to New Delhi.

2. On April 05, 2025, respondent no. 5 being the Inspector of Customs Preventive and Intelligence Branch, Kolkata, intercepted the vehicle at Chikanpara on Gaighata-Thakurnagar Road, North 24-Parganas, West Bengal which is an inland location not notified as a customs checkpoint. Despite the driver producing the invoice and e-Way Bill, the officer seized the consignment and vehicle under Seizure Case No. 01/IMP/CL/BETEL NUTS/P&I-II/CC(P)/WB/2025-26, alleging foreign origin without disclosing any "reason to believe" under Section 110(1) of the Customs Act, 1962. The driver, one Kamlesh Kumar, was detained and his phone was seized. The call logs led to summoning one Sanjay Baral, the godown in-charge.

3. Mr. Baral, summoned telephonically to Customs House and alleges threats of arrest by respondent no. 5 and one Mr. Anindya Mukherjee, associated to the office of respondent no.5 demanding Rs. 20 lakhs, reduced to Rs. 10 lakhs paid in cash between 7:30-8:00 p.m. on April 05, 2025. The appellant/writ petitioner lodged a corruption complaint via email dated April 18, 2025 to the Assistant Commissioner of Customs. Respondent no. 4 issued summons under Section 108, prompting further complaints of jurisdictional overreach.

4. Challenging the seizure as without jurisdiction, lack of reason to believe and motivated by corruption, the appellant/writ petitioner filed W.P.O. No. 373

of 2025. By order dated August 07, 2025, the Learned Single Judge dismissed it, holding investigation ongoing with material supporting the officer's opinion, noting the seizure site's proximity to Indo-Bangladesh border which is off Kolkata-Delhi route and the driver's statement of local purchase from Chikanpara Bazar. Aggrieved by the said order of the Learned Single Judge, the appellant prefers this appeal, seeking stay of the single judge's order, injunction on proceedings and action under Prevention of Corruption Act, 1988.

5. The Learned Counsel appearing for the appellant/writ petitioner submits that the seizure under Section 110(1) of the Customs Act, 1962, lacks "*reason to believe*" that the goods were smuggled foreign betel nuts, rendering it illegal, arbitrary and without jurisdiction. "*Reason to believe*" connotes an honest and reasonable belief, formed on the basis of credible material or rational grounds existing at the time of seizure, that the goods are liable to confiscation, however mere suspicion or a roving enquiry does not suffice and such belief must be disclosed on the record of the seizure memo itself, not developed post-facto.

6. The Learned Counsel further submits that the seizure memo/inventory fails to record any facts, material or circumstances forming the officer's belief of foreign origin, despite the driver producing valid GST invoice (No. BT/25-26/002) and e-Way Bill (No. 821516556676, which was valid till April 12, 2025) detailing domestic transit from Kolkata to New Delhi, with no intent or schedule to cross international borders or at notified customs zones. The inventory's claim that the "owner failed to produce documents" is false and perfunctory, ignoring these documents, "*reason to believe*" must exist pre-seizure, based on honest, reasonable grounds and not suspicion, or post-seizure rationale and appear on record, as settled law prevents arbitrary exercise of power.

7. The Learned Counsel contends there is a complete lack of jurisdiction, as the interception occurred at inland Chikanpara on Gaighata-Thakurnagar Road, North 24-Parganas which is an ordinary road within Indian territory, not a notified customs port, warehouse, or check post under the Customs Act. Customs powers under Section 110 cannot extend to domestic goods of Indian

origin, which do not qualify as "imported goods" under Section 2(25). No contravention of Sections 111(b) (improper import), 111(d) (prohibited goods) or 121 (smuggling) arises in pure intra-India trade, voiding the seizure ab initio.

8. It is submitted that the seizure represents a perfunctory and colourable exercise of power driven by ulterior motive, exemplified by respondent no. threatening one Mr. Sanjay Baral with detention/arrest. The appellant/petitioner lodged a corruption complaint, however the Learned Single Judge erred gravely in ignoring this malfeasance and failing to direct proceedings under the Prevention of Corruption Act, 1988, against errant officers, warranting immediate judicial intervention.

9. The Learned Counsel elaborates on multiple errors in the impugned order dated August 07, 2025. The Learned Single Judge overlooked the challenge to the very existence (not mere sufficiency) of "*reason to believe*". The seizure memo shows none, failing the mandatory threshold under Section 110(1). This core defect strikes at the seizure's validity ab initio, as settled law mandates disclosure of rational grounds on record at the time of seizure, not post-facto justification.

10. The Learned Single Judge relied on irrelevant factors, including route deviation near the Indo-Bangladesh border, the driver's statement admitting purchase from Chikanpara Bazar (affirming Indian origin, rebutting foreign claim) and pending test reports providing no pre-seizure material. These post-seizure considerations cannot validate an initial jurisdictional overreach or substitute for the absent mandatory belief.

It is further submitted that the Learned Single Judge failed to verify the officer's authority over domestic goods and misapplied ***Om Sai Trading Company v. Union of India*** reported in **2019 SCC OnLine Pat 2262**, which quashed defective seizure memos while permitting probes, but here the jurisdictional void and absent belief strike at inception. The precedent underscores quashing where foundational procedural safeguards like "*reason to believe*" are breached,

distinguishing from mere ongoing enquiries. Thus, the learned counsel submits that the impugned order is be set aside, the seizure be quashed, with directions against errant officers and under Prevention of Corruption Act.

11. The Learned Counsel appearing for the respondent Customs authorities submits that the seizure under Section 110(1) of the Customs Act, 1962 and the impugned order dated August 07, 2025 dismissing W.P.O. No. 373 of 2025 are fully justified, as the proper officer acted on prima facie "*reason to believe*" that the betel nuts were smuggled foreign-origin goods liable to confiscation. Courts cannot sit in appeal over the officer's reasonable belief, which is assessed from contemporaneous suspicious circumstances through the experienced lens of customs officials combating smuggling.

12. The Learned Counsel contends that the appellant's challenge to the absence of "*reason to believe*" in the seizure memo is untenable, as a settled Supreme Court law in ***State of Gujarat v. Shri Mohanlal Jitamalji Porwal*** reported in **1987 ELT 483 (SC)**, affirming ***Pukhran v. D.R. Kohli*** reported in **AIR 1962 SC 1559**, prohibits courts from microscopically examining whether the officer entertained reasonable belief if prima facie grounds exist. Here, interception near Indo-Bangladesh border (Chikanpara, off Kolkata-Delhi route), amid smuggling hotspot and vehicle detour constitute "extremely unusual circumstances" arousing suspicion of foreign smuggling akin to mercury-coated gold masquerading as silver in ***Mohanlal (supra)***. Produced documents do not negate this initial belief; burden shifts under Section 123 to appellant to prove licit origin during probe.

13. Preventive customs powers under Section 110 extend to inland areas proximate to borders for anti-smuggling, interception at Gaighata-Thakurnagar Road activates jurisdiction, as in ***Tirupati Trading Corporation v. Collector of Customs*** reported in **1998 (104) ELT 618**, where detention of prohibited goods (sandalwood) on reasonable belief of misdeclaration/concealment was upheld despite procedural claims. Sections 111(b)/(d)/121 apply pending tests,

domestic trade claim rebuttable post-notice under Section 124, duly responded to despite summons.

14. As in ***Tirupati Trading (supra)***, where show-cause notice within six months preserved seizure despite Section 110(2) claims, the Single Judge correctly deferred to investigation as route deviation, driver's statement and pending test reports furnish material supporting belief, justifying non-interference.

15. The Learned Counsel submits that the appellant misreads ***Om Sai Trading (supra)***. Precedents like ***Mohanlal (supra)*** bind, affirming Single Judge's restraint. Absent proof discharging Section 123 burden, impugned order merits upholding, as no irreparable harm outweighs public interest in anti-smuggling.

16. Having heard the learned counsel for the parties and perusal of the records this Court is of the view that the appeal lacks merit and warrants dismissal. The appeal is dismissed because "*reasons to believe*" under Section 110(1) of the Customs Act, 1962 requires only the officer's prima facie satisfaction based on material available at the time of seizure, without necessitating a detailed analysis or dissection of those reasons by the court.

17. Courts assess whether a proper officer formed a reasonable belief from contemporaneous circumstances, such as the interception near the Indo-Bangladesh border and route deviation, which aroused suspicion of smuggling. Mere absence of detailed reasons in the seizure memo does not invalidate the action if prima facie grounds exist on record, as affirmed in precedents like ***Mohanlal (supra)***.

18. Therefore, the Learned Single Judge correctly deferred to the ongoing investigation, noting suspicious factors including the location off the Kolkata-Delhi route in a smuggling hotspot and pending tests, without the Court needing to probe the sufficiency of the officer's belief. No jurisdictional defect arises, as preventive powers extend inland near borders, distinguishing from cases of pure roving enquiry.

19. In view of the above, the impugned order dated August 07, 2025, is upheld, and the appeal fails on merits. No interference is warranted with proceedings under the Customs Act.

20. Urgent Photostat certified copies of this judgment, if applied for, be supplied to the parties upon fulfilment of requisite formalities.

(RAJARSHI BHARADWAJ, J)

(UDAY KUMAR , J)

Kolkata

15.01.2026
PA(BS)