IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
EAST REGIONAL BENCH : KOLKATA
Court No.1

Customs Appeal No.75423 of 2021

(Arising out of Order-in-Appeal No.92-94/PAT/Cus/Appeal/2020-21 dated 09.03.2021 passed by Commissioner(Appeals) of CGST & Central Excise, Customs, Patna)

Shri Sanjay Jain
[C/o Arihant Décor, Thangal Bazar, Imphal]

Appellant

VERSUS

Commissioner of Customs (Preventive), Patna
(2nd Floor, C.R.Building (Annexe), Bir Chand Patel Path, Patna)

Respondent

WITH

Customs Appeal No.75424 of 2021

(Arising out of Order-in-Appeal No.92-94/PAT/Cus/Appeal/2020-21 dated 09.03.2021 passed by Commissioner(Appeals) of CGST & Central Excise, Customs, Patna)

Shri Akshay Khanna
[Property No.26,Ambey Market, Baraf Khana, Delhi-110006]

Appellant

VERSUS

Commissioner of Customs (Preventive), Patna
(2nd Floor, C.R.Building (Annexe), Bir Chand Patel Path, Patna)

Respondent

AND

Customs Appeal No.75425 of 2021

(Arising out of Order-in-Appeal No.92-94/PAT/Cus/Appeal/2020-21 dated 09.03.2021 passed by Commissioner(Appeals) of CGST & Central Excise, Customs, Patna)

Shri Khagen Sharma
[House No.24,2nd Floor, D.N.Path, Near Dona Planet,Near TVS Showroom,G.S.Road,Guwahati,Dist.-Kamrup, Assam-781005]

Appellant

VERSUS

Commissioner of Customs (Preventive), Patna
(2nd Floor, C.R.Building (Annexe), Bir Chand Patel Path, Patna)

Respondent

Customs Appeal Nos.75423-75425/2021

Appearance:
None for the appellant
Shri Amaresh Biswas, Authorized Representative for the Respondent

CORAM :
HON'BLE SHRI ASHOK JINDAL JUDICIAL MEMBER

DATE OF HEARING : 15 SEPTEMBER 2026
DATE OF DECISION : 15 SEPTEMBER 2026

FINAL ORDER NO.76243-76245/2026

Per Ashok Jindal :

The appellant is in appeal against the impugned order.

2. The facts of the case are that acting upon specific information on 07.09.2018 received by the Customs Officers of Hqrs Unit of Patna Customs that bulk foreign origin black pepper and other goods were being transported through Parcel/Break Van No. 010829 of the Train No.15909 (Awadh Assam Express) and it was loaded with 79 gunny bags of Black pepper and 348 pieces socks of foreign origin. On receipt of the information the officers discussed the same with the Assistant Commissioner (Prev.), Customs Hqrs., Patna and as per direction a team was formed for detection/examination of the said contraband goods at Railway Station, Hajipur in order to execute the information. The team of officers rushed towards the Railway Station, Hajipur. After reaching there, the preventive team requested the SM/ASM, Railway Station, Hajipur to detain the Train No.15909 for extra ten minutes beyond the scheduled time for a purpose to check the leased parcel Van No.010829 as the same is containing a bulk of foreign origin goods. The permission was granted by the Railway authority. The same has also been intimated to RPF and Parcel officials and were

requested to assist in the operation and also to be panchas/witnesses of the same, for which they agreed. On 07.09.2018 at about 19.23 hours, the said train reached at Platform No. 03 of Hajipur Railway Station. The Parcel officials broke open the lock of the parcel/Break Van no.010829 in presence of the Panchas and the Customs officers. On opening the gate of Parcel Van, the goods lying in gunny bags were opened and found that the same were opened and found the same is black pepper of foreign origin and one bag of foreign socks, as inform by the informer. Thereafter, the documents with the guard was checked but failed to provide the specific documents and also no one came forward to claim the ownership. The whole goods i.e. 80 bags were unloaded from the parcel van at platform No.3. Further, the Rail Receipt about booking of the contraband goods were demanded from the Guard of that train but he did not provide any paper in support of booking. Accordingly the officers of Customs (Prev.), Hqrs., Patna took possession of all 80(Eighty) bags of foreign origin goods. For safety purpose and also for completing the formalities the goods were brought at the parcel office on platform no.1 of Hajipur Railway Station. After thorough examination and on reasonable belief that the goods were imported illegally into India through unauthorised route and in violation of statute, the goods were seized and inventory was prepared. The panchnama was also drawn before the Panchas by the officers on reasonable belief that the said consignment of goods came into Indian territory through the route other than prescribed under Section 7(C) in violation of Section 11, 46 and 47 of the Customs Act,

1962 read with Section 3 of the F. T. (D & R) Act, 1992 and liable for confiscation under section 111 of the Act ibid.

2.1 It is further mentioned in the said notice that the officers decided to seize the goods under Section 110 of the Customs Act, 1962. Accordingly, all the 79 gunny bags containing foreign origin black pepper valued at Rs.22,75,200/- and socks of foreign origin valued at Rs.45,240/- were seized under Section 110 of the Customs Act, 1962 in presence of the panchas. The punchanama of the whole proceeding was recorded in presence of the panchas and the same is annexed with the notice.

2.2 Further a Claimant Notice (Import) in respect of the seized goods was issued vide C. No. VIII(10)29-421/Cus/P/H/Seiz/2018-19/180-82 dated 18.01.2019 to facilitate the actual owner of goods to put claim of ownership with regard to seized goods.

2.3 It is further mentioned in the notice that a letter has been written to the Sr. DCM, Guwahati Division, Guwahati, Assam with a copy to the Station Master, Railway Junction, Guwahati vide this office letter of even No. 544-45 dated 18.01.2019 to provide the name and address of the Consignee and Consignor of the seized goods and also other details such as invoice/E-way Bill/Railway Way bill, full details including phone number of Consignor and Consignee.

2.4 It is mentioned in the said notice that to follow up the case, a letter has been issued to the Assistant Commissioner, Customs Division, Guwahati to take up the matter with the jurisdictional Railway authorities for procuring the details name of the consignor and consignee, phone number, complete address, PAN No., GST No. etc

vide this office letter of even No. 543 dated 18.01.2019. In response to this office letter dated 18.01.2019, he submitted a follow up enquiry report, vide his letter No. 7741 dated 07.02.2019, conducted with jurisdictional railway authorities in which Railway authority, Guwahati has intimated that the alleged VP No.10829 of Train No. 15909Dn dealt by Lease holder M/s Khanna Logistic on round trip basis. Further Railway authority stated that as per lease agreement loading/unloading, seal and lock of the VP done by lease holder. As per record on 06.09.2018, 350 packages weighing 8300 Kg was loaded at Guwahati, Card level and pad lock provided by lease holder against the allged VP under MR. No. 482369.

2.5 Due to non-completion of investigation, the competent authority on 26.02.2019 has granted extension of time of three months beyond prescribed time limit of six months as per provision to Section 110(2) of the Customs Act, 1962. Accordingly, the same was intimated to Sri Akshay Khanna vide this office letter of even No.1813 dated 01.03.2019.

2.6 Accordingly, M/s. Khanna Logistics, New Delhi summoned to attend on 26.02.2019 before Customs officials under Section 108 of the Customs Act, 1962 but he did not turn up on 26.02.2019. However, M/s. Khanna Logistics, New Delhi vide his letter dated 25.02.219 intimated that he has already been appeared && recorded interrogatory statement before Customs Superintendent (Prev.), Patna on 15.02.2019 in connection with Unit Case No. 18/18-19 dated 04.09.2019 and 19/18-19 dated 05.09.2019 relating to Train No. 15909. Further, he stated that his staff Sri Khagen Sharma having

Mobile No. 8876385582 appointed at Guwahati Station for supervising all loading/unloading/booking activities.

2.7 On receiving details from M/s. Khanna Logistice, New Delhi, a letter has been sent vide this office letter of even No. 2224 dated 19.03.2019 to Assistant Commissioner, Customs Division, Guwahati to conduct follow up investigation against Sri Khagen Sharma. Further, three reminder letters issued vide letter of even No. 2859 dated 10.04.2019, 3145 dated 26.04.2019 and 3500 dated 09.05.2019 but nothing has been heard.

2.8 It is also mentioned in the said notice that meanwhile M/s Khanna Logistics, New Delhi with reference to Unit Case No.18/2018-19 dated 04.09.2018 has furnished details about the person who is the actual owner of Black Pepper. The owner name is mentioned as Mr. Sanjay (Supari Wale), Address 10/2, Gali No. 5, Imphal. However, M/s Khanna Logistics, New Delhi disowned the seized goods. Accordingly, three summons were issued to Mr. Sanjay (Supari Wale), Address - 10/2, Gali No. 5, Imphal on 23.04.2019, 06.05.2019 and 22.05.2019 but he did not turn up before the Customs officials on any dates mentioned above. However, 2nd and 3rd summons returned back undelivered by the postal remarks as 'Refuse' and 'NK' respectively.

2.9 On the basis of the certain investigation, it is alleged in the said notice that as per the discussion above, the noticees are called upon to show cause before the Addistional Commissioner, Customs (Prev), 4th floor, C. R. Building, Birchand Patel Path, Patna 800001 within 30 days as to why :-

(1) The said seized goods i.e. 3792 kgs of black pepper valued at Rs.22,75,000/- and 348 pieces socks valued at Rs.45,240/ of foreign origin collectively valued at Rs.23,20,440/- (Rupees twenty three lakhs twenty thousand four hundred and forty rupees only) seized under Section 110 of the Customs Act, 1962 should not be confiscated under Section 111 of the Customs Act, 1962;

(ii) Penalty should not be imposed upon the Noticees under Section 112 of the Customs Act, 1962.

2.10 The appellant contested the show-cause notice, but by way of adjudication order, the black pepper seized during the investigation, was absolutely confiscated along with 348 pcs.of socks under Section III of the Customs Act, 1962 and penalties were also imposed on the appellants under Section 112 of the Customs Act, 1962.

2.11 Aggrieved from the said order, the appellants are before me.

3. None appeared on behalf of the appellants nor any request for adjournment has been received. Therefore, with the consent of the ld.A.R. for the Revenue, the appeals are taken up for disposal.

4. The ld.A.R. for the Revenue reiterated the findings of the impugned order.

5. Heard the ld.AR. for the Revenue.

6. I find that it is case of seizure of black pepper and socks on reasonable belief that the said goods are being smuggled one, which was seized at Hazipur Railway Station. No documentary evidence has been produced by the appellant to say that the said goods are of smuggled one. Moreover, the items i.e. black pepper and socks, are not notified goods under Section 123 of the Customs Act, 1962,

therefore, the duty cast on the Revenue to prove that the goods in question are smuggled one, which the Revenue has failed to do so.

7. In that circumstances, the goods in question are not confiscable at all. Consequently, the order of the absolutely confiscation of the goods in question is set aside. As the goods are not liable to confiscation, no penalties can be imposed on the appellants.

8. In view of the above, the impugned order is set aside and the appeals are allowed with consequential relief, if any.

(Dictated and pronounced in the open Court)

(Ashok Jindal)
Member (Judicial)

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