IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No. 310 of 2024

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Sunil Kumar Yadav S/o Rishi Kishun Yadav @ Ram Kishun Yadav Proprietor of M/S Sunil Traders, 15, Sirsiya, Anchal Kotwa, Pipra Kothi, East Champaran.

... ... Appellant/s

Versus

1. The Principal Commissioner Of Customs, Patna, C.R. Building, Bir Chand Patel Marg, Patna- 800001.
2. The Superintendent, Customs (P) Circle Sitamarhi.
3. The Assistant Commandant, SSB, D Coy, 51 ST, SSB, Sitamarhi.

... ... Respondent/s

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Appearance :

For the Appellant/s : Ms. Archana Meenakshee, Advocate
Mr. Rana Veer Parwar, Advocate

For the Respondent/s : Mr. Additional Solicitor General

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

Date: 10-07-2026

1. The instant appeal is taken up on the following substantial question of law:

"Whether the right to appeal before the High Court continues to exist under Section 130 of the Customs Act, 1962, after its omission by Section 30 read with Part VI of the

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Schedule to the National Tax Tribunal Act, 2005 (Act No. 49 of 2005), with effect from 28.12.2005?"

2. The aforesaid substantial question of law is taken up for consideration at the outset. The omission of Section 130 of the Customs Act, 1962 was brought about by Section 30 read with Part VI of the Schedule to the National Tax Tribunal Act, 2005 with effect from 28.12.2005 as part of the legislative scheme providing for transfer of appellate jurisdiction from the High Courts to the proposed National Tax Tribunal.

3. The contemplated forum, however, never became operational. In the absence of an effective substitute appellate forum, the omission of Section 130 cannot be construed as having the effect of extinguishing the statutory right of appeal before the High Court. Such an interpretation would result in denying an aggrieved person any appellate remedy against an order passed by the Customs, Excise and Service Tax Appellate Tribunal, a consequence which could not have been intended by the legislature.

4. Accordingly, the substantial question of law is answered by holding that notwithstanding the omission of Section 130 by the National Tax Tribunal Act, 2005, the

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appellate jurisdiction of the High Court continues to subsist. Having answered the substantial question of law in the aforesaid terms, this Court proceeds to examine the merits of the appeal.

5. Now, since we hold that the instant appeal is maintainable before this Court, we proceed to examine the merits of the controversy arising from the impugned order.

6. This Miscellaneous Appeal under Section 130 of the Customs Act, 1962 is directed against the Final Order No. 76065 of 2023, dated 12.07.2023, passed by the Customs, Excise and Service Tax Appellate Tribunal, Kolkata, Regional Bench, Court No. 2, in Customs Appeal No. 76580 of 2018, whereby and whereunder the learned Tribunal affirmed the Order-in-Appeal, dated 23.11.2017, passed by the Commissioner (Appeals), Central Goods and Services Tax & Central Excise, Patna, who, in turn, had affirmed the adjudication order, dated 08.03.2017, passed by the Assistant Commissioner, Customs (Preventive) Division, Muzaffarpur confiscating 1500 kilograms of cut betel nuts, alleged to have been illegally imported into India and imposing redemption fine, customs duty and penalty upon the appellant.

7. The appeal raises a challenge to the concurrent

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findings recorded by the adjudicating authority, the Commissioner (Appeals) and the learned Tribunal regarding the nature and origin of the seized goods and the legality of the confiscation proceedings. The appellant asserts that the authorities have failed to appreciate the contemporaneous commercial documents and have proceeded solely upon assumptions drawn from the seizure of a Nepal registered vehicle. It is further contended that material documents forming the foundation of the proceedings were withheld from the appellant and were supplied only subsequently under official correspondence, thereby causing serious prejudice in the adjudication proceedings.

8. The facts, shorn of unnecessary details, are that the appellant is the proprietor of M/s Sunil Traders, carrying on business in betel nuts and other grocery commodities at Kotwa in the district of East Champaran. According to him, one Sri Navin Kumar of Sonbarsa, District Sitamarhi, placed an order on 08.04.2015 for supply of 1500 kilograms of cut betel nuts. In pursuance thereof, Invoice No. 10, dated 10.04.2015 was allegedly issued and the goods were loaded on a hired Indian pick-up vehicle for transportation from Motihari to Sonbarsa.

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9. It is the appellant's case that while the consignment was in transit, the vehicle developed a mechanical defect near Village Inderwa. Consequently, the goods were unloaded by the driver on the roadside while another vehicle was being arranged for onward transportation. Before any substitute vehicle could reach the place of occurrence, personnel of the Sashastra Seema Bal (SSB) allegedly took away the goods along with the vehicle found at the spot. The appellant claims that on receiving information regarding the seizure, he approached the SSB authorities with the supporting commercial documents. According to him, despite production of the invoice and other relevant papers, the goods were not released.

10. The record, however, discloses that on the night of 10.04.2015 at about 09:50 p.m., SSB personnel intercepted a Nepal registered Mahindra Magic Van bearing Registration No. NA-2-CHA-6141 near Indo-Nepal Border Pillar No. 321 carrying 1500 kilograms of cut betel nuts. On the following day, the vehicle together with the goods was handed over to the Customs authorities, Sitamarhi, where a seizure was effected under Section 110 of the Customs Act, 1962 and proceedings were initiated alleging illegal importation of

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goods into India.

11. During investigation, statements of the driver and the owner of the Nepal registered vehicle were recorded under Section 108 of the Customs Act. The department alleges that both of them consistently stated that the goods had been loaded at Birganj, Nepal and were intended to be transported to Bailwas, Nepal, but while proceeding towards the destination they inadvertently reached the Indo-Nepal Border where they were intercepted by the SSB personnel. According to the department, the appellant had no connection with the goods at the time of seizure and surfaced only several months thereafter claiming ownership.

12. The appellant, on the other hand, asserts that he approached the Customs authorities seeking release of the goods and thereafter appeared pursuant to summons issued under Section 108 of the Customs Act on 16.09.2015. In his statement, he reiterated that the goods belonged to him and had been dispatched in pursuance of a commercial transaction with Sri Navin Kumar. On the same date, the statement of the consignee was also recorded wherein he allegedly confirmed having placed the order for purchase of the goods from the appellant.

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13. On 06.10.2015, a show cause notice came to be issued proposing confiscation of the seized goods and imposition of redemption fine, customs duty and personal penalty upon the noticees. The appellant submitted his reply disputing the allegations and asserting that the goods were of Indian origin supported by valid commercial documents. Upon conclusion of adjudication, the Assistant Commissioner, Customs (Preventive), Division, Muzaffarpur, by order dated 08.03.2017 ordered absolute confiscation of the goods with an option to redeem the same upon payment of redemption fine of Rs.1,35,000/-, besides customs duty of Rs.3,80,688/- and personal penalty.

14. Aggrieved thereby, the appellant preferred a statutory appeal before the Commissioner (Appeals), who by order dated 23.11.2017 dismissed the appeal and affirmed the findings of the adjudicating authority. The appellant thereafter carried the matter before the Customs, Excise and Service Tax Appellate Tribunal, Kolkata, in Customs Appeal No. 76580 of 2018.

15. The learned Tribunal, upon consideration of the rival submissions, dismissed the appeal by Final Order dated 12.07.2023. The Tribunal held that there was no dispute

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regarding interception of the Nepal registered vehicle carrying the seized goods near the Indo-Nepal Border. It further observed that the statements of the driver and the owner of the vehicle consistently indicated that the goods had originated from Nepal. The Tribunal was of the view that the appellant had failed to satisfactorily explain either the delay in asserting ownership or the circumstances in which the goods allegedly came to be loaded in the Nepal registered vehicle. It also found that the photocopies of invoices produced by the appellant after several years could not outweigh the contemporaneous evidence collected during investigation. Consequently, the findings recorded by the authorities below were affirmed.

16. Challenging the aforesaid order, learned counsel appearing for the appellant submitted that the authorities have proceeded on an erroneous factual premise and have completely ignored the documentary evidence establishing that the goods formed part of a legitimate commercial transaction within India. It is submitted that Invoice No.10 dated 10.04.2015 and the statement of the consignee recorded under Section 108 clearly corroborate the appellant's explanation regarding transportation of the goods. Learned

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counsel further contended that the appellant's statement under Section 108 came to be recorded several months after the seizure and that the authorities failed to conduct any meaningful investigation regarding the appellant's version of the incident.

17. It was further argued that copies of the documents supplied by the SSB to the Customs authorities, which constituted the very foundation of the departmental proceedings, were never furnished to the appellant during adjudication. According to the appellant, only upon obtaining the relevant papers from the office of the Assistant Commissioner through official correspondence dated 19.02.2024 did it become apparent that several material facts had not been disclosed either in the show cause notice or during adjudication. It is, therefore, contended that the entire proceedings stood vitiated for violation of the principles of natural justice.

18. Learned counsel additionally submitted that the Panchnama prepared at the time of seizure, the departmental records and the subsequent stand of the respondents suffer from material inconsistencies regarding the manner in which possession of the goods was assumed by the Customs

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authorities. It was urged that these contradictions have neither been examined by the adjudicating authority nor by the appellate authorities. According to the appellant, the learned Tribunal committed a serious error in affirming concurrent findings without independently examining the evidentiary inconsistencies appearing from the record.

19. Per contra, learned Standing Counsel appearing on behalf of the respondents supported the impugned order and submitted that the appeal does not involve any substantial question of law within the meaning of Section 130 of the Customs Act. According to the respondents, the findings recorded by all the three authorities are pure findings of fact based upon appreciation of evidence and call for no interference in appellate jurisdiction.

20. It was submitted that the seizure was effected from a Nepal registered vehicle intercepted near the Indo-Nepal Border and the statements of both the driver and the owner of the said vehicle unequivocally established that the goods had originated from Nepal. Learned counsel argued that the appellant did not appear before the authorities at the time of seizure and asserted ownership only after a considerable lapse of time. Even then, he failed to disclose the registration

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number of the alleged Indian vehicle, the identity of its driver or any independent material substantiating his explanation regarding breakdown of the vehicle.

21. Learned counsel further submitted that the invoices relied upon by the appellant were merely photocopies produced at a much later stage and could not displace the contemporaneous evidence collected during investigation. It was also contended that all relevant documents relied upon during adjudication formed part of the record and no prejudice whatsoever has been demonstrated by the appellant. The respondents accordingly prayed for dismissal of the appeal.

22. Having heard learned counsel for the parties and upon perusal of the pleadings and materials available on record, this Court finds that the following issues arise for consideration:

(a) Whether the authorities below were justified in concluding that the seized consignment of 1500 kilograms of cut betel nuts was of foreign origin and consequently liable to confiscation under the provisions of the Customs Act, 1962?

(b) Whether the adjudication proceedings suffered from procedural infirmity or violation of the principles of natural justice by reason of non-supply or non-consideration

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of material documents, thereby vitiating the impugned orders?

23. The aforesaid issues are considered hereinafter.

24. The principal controversy in the present appeal centres around the origin of the seized goods. While the department asserts that the consignment had been illegally imported into India from Nepal, the appellant maintains that the goods were part of a domestic commercial transaction and were being transported from Motihari to Sonbarsa pursuant to a lawful sale. The correctness of the impugned orders, therefore, depends upon whether the material relied upon by the department was sufficient to discharge the burden cast upon it under the Customs Act and whether the explanation furnished by the appellant deserved acceptance.

25. It is not in dispute that on 10.04.2015 at about 09:50 p.m. the personnel of the Sashastra Seema Bal intercepted a Nepal registered Mahindra Magic Van bearing Registration No. NA-2-CHA-6141 near Indo-Nepal Border Pillar No. 321 allegedly carrying 1500 kilograms of cut betel nuts. On the following day, the vehicle together with the goods was handed over to the Customs authorities, where seizure proceedings were undertaken under Section 110 of the Customs Act.

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26. The departmental case proceeds on the premise that since the goods were recovered from a Nepal registered vehicle intercepted near the international border, coupled with the statements of the Nepalese driver and owner, the inevitable conclusion is that the goods had originated from Nepal. The adjudicating authority, the Commissioner (Appeals) as well as the learned Tribunal have substantially accepted the aforesaid reasoning.

27. However, upon careful examination of the materials brought on record, this Court finds that the controversy is not as simplistic as it has been projected by the departmental authorities.

28. The appellant has consistently maintained that the seized goods were never transported in the Nepal registered vehicle in the first instance. His case, from the very beginning, has been that the consignment had been loaded on a hired Indian pick-up van for delivery to the consignee at Sonbarsa. According to him, the vehicle suffered a mechanical failure near Village Inderwa, whereafter the goods were unloaded on the roadside while another vehicle was being arranged. It is during this interregnum that the SSB allegedly removed the goods.

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29. This explanation may ultimately be accepted or rejected. However, what is significant is that none of the authorities have undertaken any meaningful examination of the aforesaid defence. The adjudication order proceeds on the assumption that once the goods were found inside a Nepal registered vehicle, the appellant's explanation necessarily stood falsified. Such an approach, in the opinion of this Court, overlooks the real controversy requiring adjudication.

30. It is equally significant that the appellant produced commercial documents including Invoice No.10 dated 10.04.2015 in support of his assertion that the goods had been sold to one Navin Kumar. The consignee himself, in his statement recorded under Section 108 of the Customs Act on 16.09.2015, admitted having placed an order with the appellant for supply of 1500 kilograms of betel nuts. The existence of such commercial documents by itself may not conclusively establish lawful origin of the goods, yet they certainly constituted relevant evidence requiring objective consideration.

31. The learned Tribunal brushed aside the invoices primarily on the ground that only photocopies had been produced after a considerable lapse of time. The Tribunal also

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observed that the appellant had failed to pursue the matter immediately after the alleged disappearance of the goods and had surfaced only after about five months.

32. Delay in asserting ownership is undoubtedly a circumstance which may cast doubt upon the appellant's version. Nevertheless, delay alone cannot substitute proof regarding the foreign origin of the seized goods. The confiscation under the Customs Act cannot rest merely upon suspicion, however grave it may appear. Suspicion may justify investigation; it cannot by itself take the place of proof.

33. Equally important is another aspect which appears to have escaped adequate consideration.

34. The Panchnama prepared by the Customs authorities records that the goods were received from the SSB and seized as unclaimed property. This recital assumes significance because, if at the time of seizure the goods were treated as unclaimed, the departmental authorities were expected to independently ascertain the ownership and origin of the goods before arriving at a final conclusion regarding illegal importation.

35. The departmental records simultaneously proceed on the footing that the goods belonged to a person

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transporting them from Nepal. These two circumstances, though not necessarily destructive of each other, certainly called for a closer scrutiny by the adjudicating authority. Unfortunately, neither the adjudication order nor the appellate orders undertake any discussion regarding this apparent inconsistency.

36. Another circumstance which deserves notice is the timing of the statements recorded during investigation. While the statements of the Nepalese driver and owner came to be recorded in April, 2015 immediately after the seizure, the appellant's own statement under Section 108 was recorded only on 16.09.2015, nearly five months thereafter. It is true that the appellant himself approached the authorities subsequently claiming ownership. However, once he asserted ownership and produced documents in support thereof, the investigating agency was expected to objectively verify the defence put forward instead of merely rejecting it because the goods had originally been found inside a Nepal registered vehicle.

37. The departmental authorities have repeatedly observed that the appellant failed to disclose the registration number of the alleged Indian pick-up van or the identity of its

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driver. These are undoubtedly material omissions and constitute circumstances weighing against the appellant. Nevertheless, those deficiencies cannot relieve the department of its independent obligation to establish that the goods were liable to confiscation under the Customs Act.

38. Learned counsel for the respondents has heavily relied upon the statements of the Nepalese driver and owner. Those statements undoubtedly constitute relevant material collected during investigation. At the same time, the evidentiary value of those statements could not have been appreciated in isolation, particularly when the appellant as well as the consignee subsequently made statements supporting the existence of a domestic commercial transaction.

39. What appears from the impugned orders is that the authorities have accorded complete primacy to one set of statements while virtually discarding the other without undertaking any comparative evaluation of the surrounding circumstances. Judicial determination of disputed facts cannot proceed on selective appreciation of evidence. Every relevant circumstance supporting or weakening either version must receive due consideration.

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40. The learned Tribunal has further observed that the appellant nowhere appeared in the picture until several months after the seizure. This observation is factually correct to the extent that the appellant formally asserted ownership at a later stage. However, the Tribunal appears to have treated the said circumstance almost as conclusive proof against the appellant without examining whether the explanation offered by him regarding illness and subsequent pursuit of remedies possessed any degree of plausibility. Whether such explanation is acceptable is one matter; complete omission to examine it is another.

41. The Court is also unable to overlook that the appellant's defence regarding transportation through an Indian vehicle constitutes the very foundation of his case. Once such a plea had been specifically raised, the adjudicating authority was required to record a reasoned finding based upon objective analysis of the available evidence. Instead, the plea has largely been rejected on the assumption that the seizure from a Nepal registered vehicle necessarily excludes every other possibility. Such reasoning, in the opinion of this Court, falls short of the standard expected in quasi-judicial adjudication involving serious civil consequences.

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42. Having considered the rival submissions and the materials presently available on record, this Court is of the view that the finding recorded by the authorities regarding the foreign origin of the goods cannot be sustained solely on the basis adopted in the impugned orders. The evidence relied upon by the department undoubtedly raises a strong suspicion regarding illegal importation; equally, the appellant has produced material requiring objective examination before such conclusion could be finally reached. The authorities below, however, have failed to comprehensively analyse the competing versions in the light of the documentary record and the surrounding circumstances.

43. Accordingly, Issue No. I is answered by holding that the finding regarding the foreign origin of the seized goods, as presently recorded in the impugned orders, does not reflect a complete and reasoned appreciation of the entire evidentiary record and, therefore, cannot be sustained in its existing form.

44. Having considered the merits of the rival versions regarding the origin of the seized goods, this Court now proceeds to examine whether the adjudication itself satisfies the requirements of a fair and lawful determination.

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45. It is a settled principle that confiscation under the Customs Act undoubtedly entails serious civil consequences. Proceedings culminating in confiscation of goods, recovery of duty and imposition of redemption fine and penalty cannot, therefore, be sustained unless the person proceeded against is afforded an effective opportunity to controvert the material relied upon by the department. Such opportunity is not an empty formality but constitutes the very foundation of a fair adjudication.

46. In the present case, the appellant has consistently asserted that several documents forming the basis of the departmental action were never supplied to him during the adjudication proceedings. According to him, only after obtaining copies of the departmental records under the communication dated 19.02.2024 issued by the Assistant Commissioner, Customs (Preventive), Muzaffarpur, did he discover that material facts contained therein had neither been disclosed in the show cause notice nor considered during adjudication.

47. The respondents have denied the allegation and have contended that no prejudice has been occasioned to the appellant. Mere denial, however, cannot conclude the

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controversy. The Court is required to examine whether the record itself reflects that all the material relied upon against the appellant had actually been placed before him and whether his defence received due consideration.

48. On perusal of the adjudication order, this Court notices that considerable reliance has been placed upon the statements recorded during investigation and the circumstances surrounding the interception of the Nepal registered vehicle. However, the order is conspicuously silent regarding the precise manner in which the appellant's explanation came to be tested against the material collected by the investigating agency.

49. The appellant had specifically pleaded that the goods were being transported through an Indian pick-up vehicle which had developed a mechanical defect. Whether this explanation is believable or otherwise is a matter of appreciation of evidence. Nevertheless, once such a defence was raised, the adjudicating authority was required to examine it objectively in the light of the available material. The impugned order does not disclose any meaningful exercise in this regard.

50. Equally significant is the grievance of the

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appellant that the joint reply submitted in response to the show cause notice did not receive adequate consideration. The adjudication order records the submissions of the noticees but does not deal with several material aspects raised therein. A quasi-judicial authority is undoubtedly not required to answer every submission in elaborate detail; however, where the defence goes to the root of the allegation, reasons must indicate that the authority has consciously applied its mind to the same.

51. This assumes greater importance in the present case because the departmental case rests substantially upon documentary material and statements recorded during investigation. If the appellant disputes either the completeness or the correctness of such material, the adjudicating authority is expected to deal with those objections by assigning cogent reasons. Mere reproduction of the departmental version cannot substitute judicial consideration.

52. This Court also finds substance in the appellant's contention that the sequence of events assumes relevance while evaluating the fairness of the proceedings. The seizure took place on 10.04.2015 and the goods were taken over by the Customs authorities on the following day. The appellant's

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statement under Section 108 of the Customs Act came to be recorded only on 16.09.2015, after a considerable lapse of time. The delay by itself may not invalidate the proceedings; nevertheless, once the appellant's explanation was brought on record, the authorities were under an obligation to examine the same in conjunction with the entire evidence collected during investigation. Such exercise is not discernible from the impugned orders.

53. Another aspect which deserves mention is that the adjudicating authority appears to have proceeded on the assumption that the recovery of the goods from a Nepal registered vehicle concluded the issue regarding their origin. Such an approach overlooks that the appellant's defence was not merely a denial of the departmental allegations but a positive case explaining how the goods allegedly came to be associated with the Nepal vehicle. Whether that explanation ultimately inspires confidence is a matter for adjudication; however, rejection of the defence without proper analysis cannot be sustained.

54. The learned Tribunal, while affirming the concurrent findings, has substantially reiterated the conclusions recorded by the authorities below. The Tribunal

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has observed that the appellant surfaced only after about five months and that the invoices produced by him could not be accepted at such a belated stage. These observations undoubtedly constitute relevant circumstances. However, the Tribunal has not independently examined whether the adjudication itself suffered from procedural infirmities arising out of non-consideration of the appellant's defence or the alleged non-disclosure of relevant records.

55. The jurisdiction of the Tribunal is not confined merely to affirming conclusions reached by the original authority. Being the final fact-finding forum under the Customs Act, it is expected to independently evaluate the legality as well as the propriety of the adjudication proceedings. The impugned order, however, does not indicate any independent consideration of the specific objections raised by the appellant regarding the manner in which the adjudication was conducted.

56. This Court is conscious that every procedural lapse does not necessarily vitiate an adjudication. The doctrine of prejudice remains applicable. At the same time, where the procedural irregularity bears directly upon the appreciation of evidence and the opportunity available to the noticee to

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establish his defence, the defect cannot be treated as inconsequential. The Court must be satisfied that the decision has been reached after a fair consideration of all relevant materials. Such satisfaction is presently lacking.

57. The cumulative effect of the circumstances noticed hereinbefore persuades this Court to hold that the appellant's defence has not received the degree of consideration which the law mandates in proceedings of the present nature. The issue is not whether the appellant has conclusively established his claim. The issue is whether the adjudicating process itself inspires confidence that every material circumstance was objectively examined before confiscation was ordered. In the opinion of this Court, the answer must be in the negative.

58. Consequently, Issue No. II is answered in favour of the appellant to the limited extent that the adjudication proceedings suffer from material deficiencies in the consideration of the appellant's defence and the documentary record, resulting in denial of an effective and meaningful adjudication.

59. Having answered the issues framed hereinabove, the Court is now required to determine the

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consequence flowing from the deficiencies noticed in the impugned proceedings.

60. It is trite that this Court, while exercising jurisdiction under Section 130 of the Customs Act, does not function as a court of first instance for re-appreciation of disputed facts. The jurisdiction is confined to examining substantial questions of law arising from the order of the Appellate Tribunal. Consequently, this Court would ordinarily refrain from recording independent findings on disputed questions relating to ownership of goods, appreciation of oral evidence or evaluation of rival factual versions.

61. At the same time, where findings recorded by the statutory authorities are shown to have been arrived at by ignoring material evidence, by proceeding on erroneous assumptions or by failing to consider the defence raised by the affected party, interference by this Court cannot be declined merely because concurrent findings exist.

62. In the present case, this Court has noticed that the authorities have proceeded substantially on the premise that the recovery of the goods from a Nepal registered vehicle conclusively establishes their foreign origin. The appellant's defence, however, proceeds on an altogether different factual

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foundation, namely, that the goods originally formed part of a domestic commercial transaction and came to be associated with the Nepal vehicle only after the Indian vehicle allegedly developed a mechanical defect. Whether such explanation ultimately deserves acceptance is not a matter which this Court proposes to determine for the first time in the present appeal.

63. Equally, this Court cannot overlook that the Panchnama, the sequence in which possession of the goods was assumed by the Customs authorities, the statements recorded during investigation, the appellant's documentary evidence and the objections raised in reply to the show cause notice required a more comprehensive consideration than what is reflected from the impugned orders. The adjudicating authority was expected to examine these circumstances collectively and record clear findings supported by reasons. Such an exercise is conspicuously absent.

64. The Tribunal, while affirming the concurrent findings, has also not independently addressed these aspects. Being the final fact-finding authority, the Tribunal was expected to examine whether the adjudication itself suffered from any infirmity affecting the fairness of the decision-

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making process. The impugned order, however, substantially reiterates the conclusions of the authorities below without addressing the specific objections raised by the appellant.

65. The respondents have argued that the appellant approached the authorities after an inordinate delay and that his explanation regarding the Indian pick-up vehicle is wholly unbelievable. These are undoubtedly relevant considerations. Nevertheless, disbelief of a defence must emerge from a reasoned evaluation of the evidence and not merely from the circumstance that another version appears more probable. Judicial determination requires objective consideration of all relevant material before one version is accepted and the other rejected.

66. This Court is also mindful that remand is not to be ordered as a matter of course. A remand becomes necessary only where the Court finds that the adjudicatory process itself has suffered from such deficiencies that a just decision cannot be rendered without reconsideration by the competent authority. Conversely, where the material on record is sufficient to sustain the ultimate conclusion notwithstanding minor procedural lapses, remand would merely prolong litigation.

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67. Having examined the entire record, this Court is satisfied that the present matter falls in the former category. The deficiencies noticed herein are not merely procedural irregularities but relate to the core process of appreciation of evidence. The authorities have not adequately examined the appellant's defence, the documentary material relied upon by him or the inconsistencies highlighted during the course of proceedings. In such circumstances, any attempt by this Court to itself undertake a fresh appraisal of the evidence would amount to substituting the statutory adjudicatory mechanism envisaged under the Customs Act.

68. The interests of justice would, therefore, be best served by restoring the matter to the adjudicating authority for fresh consideration. Needless to observe, this Court has expressed no opinion on the merits of the rival claims regarding the origin of the goods or the liability of the appellant. All questions of fact and law are left open to be determined afresh.

69. Accordingly, the Final Order No. 76065 of 2023, dated 12.07.2023, passed by the Customs, Excise and Service Tax Appellate Tribunal, Kolkata in Customs Appeal No. 76580 of 2018, the Order-in-Appeal dated 23.11.2017, passed

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by the Commissioner (Appeals), Central Goods and Services Tax & Central Excise, Patna, as well as the adjudication order, dated 08.03.2017, passed by the Assistant Commissioner, Customs (Preventive), Division, Muzaffarpur, are hereby set aside.

70. The matter is remanded to the Assistant Commissioner, Customs (Preventive), Division, Muzaffarpur, for a fresh adjudication. The adjudicating authority shall:

(a) furnish the appellant all relied upon documents, if not already supplied;

(b) afford adequate opportunity to all concerned parties to place their respective evidences and submissions;

(c) objectively consider the appellant's defence, the documentary evidence produced by the parties and the materials collected during investigation; and

(d) pass a fresh reasoned order, strictly in accordance with law, uninfluenced by any observation made in the earlier orders or in the present judgment except to the extent indicated herein.

71. It is clarified that this Court has not adjudicated upon the correctness of the rival factual claims, and all contentions available to the parties are kept open to be urged

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before the adjudicating authority.

72. The instant Miscellaneous Appeal is, accordingly, allowed to the aforesaid extent.

73. However, there shall be no order as to costs.

(Bibek Chaudhuri, J)

Rana Vikram Singh, J: I agree.

(Rana Vikram Singh, J)

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