

HIGH COURT OF MEGHALAYA
AT SHILLONG

Cus. Appl. No. 1 of 2021

Date of Order :28.10.2021

The Commissioner of Customs (Preventive), Vs. Laltanpuui.
NER Region, Shillong.

Coram:

Hon'ble Mr. Justice Ranjit More, Chief Justice

Hon'ble Mr. Justice H.S.Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : Dr. N.Mozika, Sr. Adv. with
Ms. K.Warjri, Adv.

For the Respondent(s) : Ms. P.Sikdar, Adv.
Mr. N.Dasgupta, Adv.

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| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |

Per R.More, (CJ)

1. Heard Dr. N.Mozika, learned Sr. counsel for the petitioner and Ms. P.Sikdar, learned counsel for the respondent.

2. On 29-10-2017, two trucks bearing registration No. AP-16 -TD 9797 and AP-16-TD-3344, each transporting a consignment of betel nut were intercepted by the appellants while they were on their way to Guwahati. The appellants suspected that the betel nuts loaded in the trucks was of foreign origin and therefore, seized the said bags of betel nut under Section 110 of the Customs Act on the ground that the said betel nuts were brought to India through unauthorised route in violation of the Customs Act and are liable for confiscation under Section 111 (b) and 111 (d) of the said Act. The trucks were also seized under Section 115 of the Customs Act. The appellants, thereafter, gave show cause notice to the respondent for the purpose of proceedings under the Customs Act.

3. The Commissioner of Customs (Preventive), after hearing the respondent, by his order dated 06-06-2019, confiscated the vehicles and the said bags of betel nuts under Section 111 (b) and (d) of the Customs Act and also imposed penalty of ₹10,00,000/- (Ten) Lakhs on the respondent. The respondent being aggrieved, preferred a Custom Appeal before the Customs, Excise & Service Tax Appellate Tribunal, Kolkata. After hearing the parties, this appeal was allowed by the Tribunal by the order dated 09-12-2020 and this order is impugned in the present appeal.

4. The Division Bench of the Tribunal recorded the finding that the confiscated betel nut is non-notified goods and therefore, burden to prove the fact of smuggling lies on the department and same has not been discharged. In this regard, the department relied upon the certificate issued by the Arecanut Research and Development Foundation, Mangalore to show that the confiscated goods/betel nuts are of foreign origin. However, the Tribunal refused to consider this certificate on the ground that the said Institution is not accredited and hence the report was not relied on. The Tribunal in this regard relied on the decision of the Patna High Court reported in *2020 (371) ELT 353* (Patna).

5. After hearing the learned counsel appearing for the respective parties and after going through the impugned judgment and order, we find no error in the findings given by the Tribunal. The said findings, in our opinion are supported by reasons and therefore, we are not inclined to interfere in this appeal. Appeal has no merit and is accordingly dismissed.

(H.S.Thangkhiew)
Judge

(R. More)
Chief Justice

Meghalaya
28.10.2021
"Samantha PS"