

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.795/2024

Saikat Ali, Proprietor of M/S. Saikat Enterprise, Resident of Noa Para, Bishalgarh, District-Sepahijala, Tripura, PIN-799102.

..... Petitioner(s).

V E R S U S

1. Union of India, Represented by Secretary, Ministry of Finance, Department of Revenue, Government of India, New Delhi, India.
2. Commissioner of Customs, Government of India, Notice to be served through office of the Deputy Commissioner of Customs.
3. Deputy Commissioner of Customs, Government of India, Office at CGST Bhavan, 4th & 5th Floor, Netaji Chowmuhani, Mantribari Road, Agartala, West Tripura, Tripura.
4. Superintendent of DPF, Customs Division, Office at CGST Bhavan, 4th & 5th Floor, Netaji Chowmuhani, Mantribari Road, Agartala, District:-West Tripura, Tripura.

..... Respondent(s).

For Petitioner(s) : Ms. R. Purkayastha, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, Dy. S.G.I.,
Mr. Paramartha Datta, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Order

19/12/2024

Heard Ms. R. Purkayastha, learned counsel appearing for the petitioner and Mr. Paramartha Datta, learned counsel appearing for the respondent-Revenue.

2. Though petitioner has approached this Court with multiple prayers, but learned counsel for the petitioner confines the grievance of the petitioner to issuance of a direction upon the respondent-Customs authorities to release the consignment of 700 bags of sugar in favour of the petitioner which was seized

on 19.11.2024 in connection with Case No.06/CL/EXP/DPF/AGT/24-25, dated 19.11.2024.

3. As per the averments made in the writ petition, briefly stated, petitioner, a proprietorship firm, is operating under a trade license issued by the Nabinagar Gram Panchayat, Bishalgarh R.D. Block dated 27.03.2024 bearing No.119 valid up to 27.03.2025 for the purposes of running a grocery shop subject to terms and conditions. Petitioner is also registered under the GST bearing No. 16ASNPA8854H1ZG. During course of transit, consignment of 700 bags of sugar were intercepted and seized by the Customs authorities on 19.11.2024 having a value of approximately Rs.15,09,998/- in the name of the petitioner. The consignment was being transported for storage in the godown at Bishalgarh, Sepahijala District accompanied by a valid invoice, e-way bill and other relevant documents as per applicable laws in a truck bearing registration No.AS-01RC-1327 from Jiban Kumar Saha, M.G. Bazar, Agartala, West Tripura to the petitioner's firm at Bishalgarh for timely distribution to customers. The said consignment was intercepted allegedly for violation of Section 7(1)(c) of the Customs Act, 1962 in terms of the provisions of Section 110 of the Act. Copy of the seizure list dated 19.11.2024 is at Annexure-3. Petitioner received a summon dated 27.11.2024 under Section 108 of the Customs Act, 1962, to which he filed a written statement on 02.12.2024. Petitioner also made a prayer on the same date for release of the goods as they are perishable in nature in terms of Section 110(1-A) of the Act before the Superintendent of DPF, Customs Division, Agartala, respondent No.4. Petitioner received another summons dated 03.12.2024 and pursuant thereto appeared on 06.12.2024 but due to absence of the respondent No.4 no

proceedings could be held. His application for release of the goods under Section 110(1-A) of the Act is kept pending. Apprehending that the goods which are perishable in nature may be destroyed due to various reasons including inclement weather, petitioner has approached this Court with a prayer to direct the respondents to release the said consignment under suitable terms and conditions.

4. Mr. Paramartha Datta, learned counsel for the respondents-Revenue, submits on instructions that the petitioner has not made the application for release of the consignment before the Adjudicating Officer who in this case should be the Additional Commissioner/Joint Commissioner who has been conferred the power under Chapter-XIV where value of the goods liable for confiscation is between Rs.10 lakhs to Rs.15 lakhs. He has referred to a Circular No.16/2018-Customs dated 08.06.2018 issued by the Central Board of Indirect Taxes and Customs (CBIC), Department of Revenue, Ministry of Finance. Learned counsel for the Revenue also makes a statement, on instructions, that pursuant to the summons issued upon the petitioner on 19.11.2024, the petitioner appeared on 20.11.2024 and denied ownership of the goods. Therefore, certain facts are also in dispute. He further submits that petitioner is required to apply before the Adjudicating Officer in a proper format. In case, such an application is made, the Adjudicating Officer would decide it in accordance with law within a reasonable time or as may be directed by this Court.

5. Learned counsel for the petitioner submits that the petitioner is ready to make an application in a prescribed format before the Adjudicating

Officer within a period of 3(three) days. The Adjudicating Officer may be directed to dispose of the said application considering the perishable nature of the goods within a short period.

6. On hearing the learned counsel for the petitioner and on consideration of the limited gamut of facts required to deal with the issue at hand, we are of the considered view that the petitioner should approach the Adjudicating Officer, i.e. the Additional Commissioner/Joint Commissioner, Customs, Agartala with an application in a proper format for release of the perishable goods duly supported with all necessary facts and documents in terms of Section 110(1-A) of the Customs Act, 1962 within a period of 4(four) days from today. On receipt of such application, the Adjudicating Officer/ Additional Commissioner/Joint Commissioner, Customs, Agartala would take a decision in accordance with law, preferably within a period of 10(ten) days from the date of receipt of such application after complying with the principles of natural justice.

Let it be made clear that we have made no comments on the merits of the claim of the petitioner.

7. Writ petition stands disposed of in view of above terms.

Pending application(s), if any, also stands disposed of.

(BISWAJIT PALIT), J

(APARESH KUMAR SINGH), CJ

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