

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 1

**Customs Appeal No. 75780 of 2023**

(Arising out of Order-in-Appeal No. 77-81/PAT/CUS/Appeal/2023-24 dated 19.06.2023 passed by the Commissioner (Appeals) of Customs, C.G.S.T. & C.Ex., Patna, 2<sup>nd</sup> Floor, C.R. Building (Annexe), Bir Chand Patel Path, Patna)

**Smt. Kanchan Devi**

**: Appellant**

W/o. Shri Chandan Kumar,  
Village: Gulab Bagh, Naya Tola,  
Ward No. 23, Barh,  
Bihar – 803 113

**VERSUS**

**Commissioner of Customs (Preventive)**

**: Respondent**

Central Revenue Building, 4<sup>th</sup> Floor,  
Bir Chand Patel Path,  
Patna – 800 001

**APPEARANCE:**

None for the Appellant

Shri Ashwini Kr. Choudhary, Authorized Representative, for the Respondent

**CORAM:**

**HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)**

**FINAL ORDER NO. 75478 / 2026**

DATE OF HEARING / DECISION: 06.04.2026

**ORDER:**

The appellant is in appeal against the impugned order wherein their vehicle has been confiscated and allowed to be redeemed on payment of redemption fine of Rs.2,45,073/- under Section 125 of the Customs Act, 1962 and a penalty of Rs.25,000/- has been imposed under Section 112(b) of the Act.

2. The facts of the case are that on specific information received, on 05.10.2020, the vehicle bearing No. BR01GH-9594 was intercepted near Maithi Toll Plaza at Darbhanga Road. On being asked, the driver of the said vehicle introduced himself as Shri Niraj Choudhary, resident of Gulab Bagh, Naya

Tola, Ward No. 23, Barh, Patna, Bihar – 803 213 and informed that Khesari had been loaded on the vehicle from Basopatti; he produced the invoice bearing No. 367 dated 05.10.2020 issued by M/s. Gupta Gaila Bhandar and General Store, Purnahi Chowk, Mehterpatti, Birpur, Basopatti, Madhubani whereas the description of the goods was mentioned as "Khesari Packet 100x50" in hindi, valued at Rs.1,75,000/-, mentioning the Vehicle No. as BR01GH-9594. A stamp of "Tax Free" was also embossed on the said invoice. The said invoice was duly signed by Shri Arun Kumar Sah.

3. Keeping in view the movement of vehicles on NH-57, lack of proper space and security reasons, the said vehicle was brought into the office of the Commissioner of Customs, Preventive Division, Muzaffarpur. The above vehicle was searched in the presence of the driver and independent witnesses. From the cabin of the said vehicle, 02 toll plaza receipt, Xerox Copy of Form-23, Road Permit and insurance paper relating to the intercepted vehicle, one DL having No. BR-01201603425131 issued in the name of Shri Chandan Kumar, S/o. Mangal Choudhary, Naya Tola, Barh, Bihar and Invoice No. 46/2020 of M/s. Subodh Dal Mill, Bihar Sharif were recovered. Upon further examination, 100 jute bags containing Matar (green peas and yellow peas) were recovered. On weighment, the total weight of the recovered peas contained in the 100 jute bags came to 4,300 kgs, after deducting the average weight of the jute bags. Thereafter, two traders were called for obtaining their opinion regarding the recovered peas, who said that the peas appeared to be of foreign origin and their retail price in the market should be between Rs.60/- to Rs.70/- per kg.

4. On spot interrogation, the statement of the driver namely, Shri Niraj Chowdhury, was recorded wherein he inter alia stated that he was driving the seized vehicle bearing No. BR01GH-9594 without his own driving licence, but used the driving licence No. BR-01201603425131 of his elder brother, namely, Shri Chandan Kumar; that the owner of the said vehicle is Smt. Kanchan Devi (the appellant herein) and the total business activity of the seized vehicle is handled by his brother, Shri Chandan Kumar; that he was going to Didargani Bazar Samiti Area near Patna Toll Plaza and the said goods were to be delivered as per the direction over phone by Shri Arun Ji. Further, he also stated that the goods were loaded as green peas and yellow peas in total 100 bags in his presence from Basopatti on the direction of Shri Arun Ji. He also accepted that he used to transport Nepali peas by lorry for extra money.

5. As the driver of the said vehicle could not produce valid documents, after completion of all formalities and proceedings relating to the said green peas and yellow peas, the vehicle in question was seized under Section 110 of the Customs Act, 1962.

5.1. Thereafter, summons were issued and various statements were recorded.

6. A Show Cause Notice was issued, inter alia, to the appellant for confiscation of the vehicle in question and for imposition of penalty under Section 112(b) of the Customs Act, 1962.

6.1. The matter was adjudicated wherein inter alia redemption fine was imposed by the Id. adjudicating authority in lieu of confiscation of the said vehicle; penalty was also imposed on the appellant under Section 112(b) of the Act.

6.2. On appeal, the Ld. Commissioner (Appeals), by way of the impugned order, has upheld the order passed by the Id. adjudicating authority.

6.3. The appellant is in appeal against the confiscation of the vehicle and the imposition of penalty on the appellant.

7. None appeared on behalf of the appellant nor any request for adjournment has been received on their behalf.

8. However, considering the fact that the issue is in a narrow compass, the appeal is taken up for consideration.

9. In this case, the sole allegation against the appellant is that of transporting goods, i.e., green peas / yellow peas, of foreign origin in the vehicle owned by the appellant.

10. On going through the records placed before me, I could not find any document supporting the allegation that the goods in question are of foreign origin. As the subject goods are not notified goods under Section 123 of the Customs Act, 1962, the onus lies on the Revenue to prove that the goods in question are of foreign origin, which the Revenue has failed to do. In these circumstances, I hold that the vehicle transporting the goods in question cannot be confiscated and consequently, no redemption fine can be imposed. Accordingly, no penalty can be imposed on the appellant.

11. In view of this, the impugned order qua confiscation of the vehicle in question and imposition of penalty on the appellant, is set aside.

12. The appeal is allowed, with consequential relief, if any.

(Dictated and pronounced in the open court)

Sd/-  
**(ASHOK JINDAL)**  
MEMBER (JUDICIAL)

Sdd