

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

**Customs Appeal No. 60038 of 2026**

[Arising out of Provisional Release Order No. 10/2025-26 dated 16.01.2026  
passed by the Principal Commissioner of Customs, Ludhiana]

**M/s Savirama Traders**  
RZ-22/274, Street No. 5B,  
Gitanjali West Sagarpur,  
New Delhi 110046

**.....Appellant**

*VERSUS*

**Principal Commissioner of Customs, .....Respondent**  
**Ludhiana**  
Customs House, ICD GRFL Complex,  
G.T. Road, Sahnewal,  
Ludhiana, Punjab 141120

**APPEARANCE:**

Mr. Naveen Bindal, Mr. Aman Garg and Mr. Bharat Jain, Advocates for the  
Appellant

Mr. Naman Jain, Special Counsel (Authorized Representative) for the  
Respondent

**CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)**  
**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 60300/2026**

DATE OF HEARING: 25.02.2026

DATE OF DECISION: 10.04.2026

**S. S. GARG :**

The present appeal is directed against the Provisional Release  
Order No. 10/2025-26 dated 16.01.2026 passed by the Principal

Commissioner of Customs, Ludhiana whereby the learned Principal Commissioner has passed following order:

(i). I order for provisional release of impugned goods imported vide BoE No. 8008083 25.01.2025 and seized vide seizure memo dated 01.09.2025. The importer shall furnish a Bond equal to the assessable value of the impugned goods i.e. Rs. 1,51,63,762/- (Rupees one crore fifty one lakh sixty three thousand seven hundred sixty two only) to bind himself to pay in case of any duty demand/ fine/ penalty/ interest as may be leviable on such goods, subsequently in adjudication.

(ii). The importer is required to furnish Bank Guarantee/ Security (containing clause binding the issuing Bank to keep it renewed and valid till payment of full liability in this case, or in the event of non-renewal of bank guarantee, the guaranteed amount be credited to Govt. account by the bank on its own) of Rs. 1,63,64,732/- (Rupees one crore sixty three lakh sixty four thousand seven hundred thirty two only) as security covering payment of any possible future liabilities of Duties)/penalties/ fines payable against the said goods.

2. Briefly stated facts of the present case are that the Appellant filed a Bill of Entry No. 8008083 dated 25.01.2025 and declared the description of the subject goods as "Areca Nuts" classified under CTH 08028090. The Appellant imported the said goods from Thanulak Trading Pvt Ltd, 342/2/C, Gonawala Road, Kelaniya, Sri Lanka. The details of goods are as follows:

<b>S. No.</b>	<b>BoE No. &amp; Date</b>	<b>Declared description of the goods</b>	<b>Quantity (in Kgs)</b>	<b>Declared Assessable Value (in Rs.)</b>	<b>Duty involved (in Rs.)</b>
1.	8008083 25.01.2025	Areca nuts	27,000	1,51,63,761	7,58,188

2.1 The Appellant filed the Warehouse Bill of Entry which was assessed at Faceless Assessment Group with Warehouse Bond and Bank Guarantee subject to the verification of Certificate of Origin ('COO'). The Department of Commerce, Sri Lanka, vide their letter dated 14.05.2025, confirmed the authenticity of the COO bearing Ref. No. CO/ISFTA/2025/20011. After the verification of country of origin, re-assessment was done and Bill of Entry was registered and the goods were taken up for examination.

2.2 Thereafter, the samples were drawn in the presence of the authorized representative for the Appellant and sent to CRCL, New Delhi, vide Test Memo No. 1273856 dated 02.05.2025, for determining the fitness for human consumption under the Food Safety and Standards Act, 2006, and for confirmation of the composition/classification of the goods. The CRCL, New Delhi vide its Test Report dated 04.07.2025 reported as under:

(i). The sample as received is in the form of dark brown coloured hard cut pieces of split nuts of irregular size and shape. It has the characteristics of Betel nut/Areca nut as per Regulation No. 2.3.55 of Food Safety & Standards Regulation 2011 and IS 16962:2018. Based on the physical appearance, colour and moisture content of the sample, it is roasted areca nut.

(ii). The tested parameters of the sample do not meet the requirement for Area nut/Betel nut as per Food Safety and Standards Regulation (FSSR 2011) in respect of Damaged Nuts (exceeds the limit of 12%) and hence the sample may not be considered as fit for human consumption.

2.2.1 Thereafter, the Appellant vide their letter dated 09.07.2025 intimated their disagreement to the findings of the CRCL, New Delhi and requested for re-testing from any FSSAI notified laboratories/referral lab. The competent authority considered the

request of the Importer/Appellant and directed to send the samples to CRCL, New Delhi for re-testing. The Importer/Appellant refused to sign the test memo for re-testing and then the goods imported against Bill of Entry No. 8008083 dated 25.01.2025 were seized vide Seizure Memo dated 01.09.2025 under Section 110 of the Customs Act, 1962 on a reasonable belief that the same are liable to confiscation under Section 111 of the Customs Act.

2.3 The Appellant vide their letter dated 16.09.2025 once again conveyed their disagreement with the conclusion of the CRCL report, which suggested the samples are "roasted areca nut" and "unfit for human consumption". The Importer/Appellant further requested for sending the samples to any other FSSAI notified laboratories/referral lab. The request of the Importer/Appellant was considered and as per the directions of the competent authority, fresh samples were drawn and were sent to CRCL, New Delhi vide test memo no. 1303585 dated 06.10.2025 to ascertain the nature of the samples whether roasted, dried or raw and also to National Food Laboratory, Ghaziabad vide test memo no. CUS/28/25-26 dated 06.10.2025 to ascertain whether the samples are fit for human consumption or not.

2.3.1 In respect of test memo no. 1303585 dated 06.10.2025, the CRCL, New Delhi vide its report dated 06.11.2025 reported as under:

"The tested parameter of the sample u/r does not meet the requirement for Areca Nut/Betel Nut as per Food Safety and Standards Regulation (FSSR 2011).

On the basis of physical appearance, color and other tested parameter the sample u/r is roasted areca nut."

2.3.2 On the other hand, the National Food Laboratory, Ghaziabad vide its report dated 13.10.2025 reported as under:

"On basis of test performed above, the samples of Areca Nuts conform to the standards laid done under Regulations No.2.3.55 of Food Safety & Standards (Food Products standards and Food Additives) Regulations, 2011."

2.4 On the basis of the CRCL's report, the Department entertained the view that the Appellant have mis-declared the description of the subject goods as "Areca Nuts" to mis-classify them under CTH 08028090, instead of the actual description "Roasted Areca Nuts" which should be classified under CTH 2008, in order to claim undue benefit of duty exemption under Notification No. 26/2000 (ISFTA). On these allegations, a show cause notice dated 11.12.2025 was issued to the Appellant proposing classification of imported goods under CTH 2008, denial of benefit of preferential rate of duty under ISFTA and demand of customs duty amounting to Rs. 74,24,178/- along with interest as applicable; imposition of penalties under Sections 114A and/or 112(a)(ii) & 117 of the Customs Act, 1962 was also proposed.

2.5 The Appellant vide their letter dated 30.12.2025 requested for provisional release of the seized goods under Section 110A of the Customs Act, 1962 as the same are perishable in nature and the Importer is facing financial hardship.

2.6 The competent authority, after considering the request of the Appellant and after relying upon the CBIC Circular No. 35/2017-Cus

dated 16.08.2017, has allowed the provisional release of goods vide the impugned Provisional Release Order dated 16.01.2026, subject to onerous conditions of furnishing the bond and the bank guarantee. Hence, the present appeal.

3. Heard both sides and perused the material on records.

4. The learned Counsel for the Appellant submits that the impugned Provisional Release Order is not sustainable in law as the same has been passed without properly appreciating the facts and the law, and binding judicial precedents. He also submits that the impugned Provisional Release Order has imposed arbitrary, unreasonable and onerous conditions for releasing the imported goods.

4.1 He further submits that the Department has relied upon the guidelines laid down vide CBIC Circular No. 35/2017-Customs dated 16.08.2017 to impose such harsh conditions. He further submits that the Circular dated 16.08.2017 as well the regulations laid down for provisional assessment of goods, give discretion to the Department to impose condition for seeking provisional release of the seized goods. He also submits that though discretion has been given to the adjudicating authority but the said discretion has to be exercised in a reasonable manner and the adjudicating authority cannot impose the arbitrary, unreasonable and onerous conditions under the Act in every case of seizure. He also submits that the purpose of imposing conditions on provisional release of goods is to secure the interest of revenue but it cannot be at the cost of

advantage to the Customs Department. He further submits that the Department, by way of imposing such harsh conditions, has made Section 110A of the Customs Act ineffective.

4.2 He further submits that the Circular dated 16.08.2017 was issued by the Board by relying upon the judgment of Hon'ble Delhi High Court in **WP(C) No. 3965/2017** titled as **Mala Petrochemical & Polymers vs. Addl. Director General, DRI & Another** & **WP(C) No. 4123/2017** titled as **Mala Petrochemical & Polymers vs. The Commissioner of Customs (Import), ICD, Tughlakabad, New Delhi** as mentioned in the circular itself. He further submits that the Hon'ble Supreme Court vide its order dated 08.08.2017 has stayed the operation of the said judgement of Hon'ble Delhi High Court and the said case is still pending before the Hon'ble Supreme Court.

4.3 He further submits that the report submitted by the Chemical Examiner of the CRCL, New Delhi cannot be relied upon because the classification of the goods has been decided by the Chemical Examiner on mere visual inspection and declared the goods as "Roasted Areca Nuts" whereas in fact, the imported goods are "Raw Areca Nuts". He also submits that Chemical Examiner of the CRCL, New Delhi is not even a food analyst and the report submitted by him cannot be relied upon at all. In this regard, he places reliance on the decision of the Tribunal in the case of **Principal Commissioner of Customs, Preventive, New Delhi vs. N & N Traders – (2024) 18 Centax 274 (Tri. Delhi)**.

4.4 He further submits that classification of a product is determined on the basis of General Rules for the Interpretation, Section Notes and Chapter Notes. As per Rule 1 of the General Rules for the Interpretation, classification shall be determined on the basis of the headings and any related section or chapter notes. He also refers to various section notes and chapter notes which are binding in nature, and submits that on perusal of various chapter notes, it comes out that even after chilling process, product i.e. fruits & nuts are to be classified under Chapter 8 only. Further, the product classified in Chapter 8 may be subject to re-hydration, heat treatment, sulphuring, addition of sorbic acid or potassium sorbate for the purpose of additional preservation or stabilisation and to improve or maintain their appearance; and thus, the processes mentioned in Chapter 8 includes chilling, steaming, boiling and adding of ingredients like sulphur, sorbic acid, potassium sorbate, vegetable oil or glucose syrup.

4.5 He further submits that for obtaining the Roasted Areca Nuts, roasting process is done which is nowhere included in Chapter 8; the process of roasting as referred in Chapter 20 is completely different from process stated in Chapter 8; Chapter 8 includes the process of moderate heat treatment whereas Chapter 20 includes process of roasting which involves high excessive heat treatment.

4.6 He further refers to Chapter Note 3, wherein it is prescribed that the processes of dehydration, drying and addition of some ingredients, heat treatment are meant for additional preservation or

stabilization or to improve/maintain the appearance of the product; process of roasting is not done for additional preservation or stabilization or to maintain, improve the appearance; roasting process is done for immediate consumption of areca nut and it also changes the appearance and chemical composition of the product; therefore, a new product emerges after roasting process and clearly falls outside Chapter Note 3 of Chapter 8.

4.7 He further submits that it is nowhere stated in the CRCL's test report that any such roasting process has undergone on areca nut, and thus, in the absence of this finding, it is wrong to assume the goods as "Roasted Areca Nuts".

4.8 He also submits that as per HSN Explanatory Notes, heading 2008 covers fruits/nuts/edible parts of plants, whole/piece/crushed, prepared or preserved otherwise than by any process specified in other chapters or in the preceding headings of this chapter, and in the absence of any proof of processes carried out in the present case, the goods in question would fall under Chapter Heading 0802.

4.9 He further submits that the case of the Appellant is fully covered by the judgment of Hon'ble Madras High Court in case of **Commissioner of Customs, Chennai-II vs. Shahnaz Commodities International Pvt Ltd - 2023 (386) ELT 214 (Mad)**, vide which the Hon'ble High Court has dismissed the writ petition filed by the Department against the Advance Ruling given by Advance Authority, Mumbai.

4.10 He further submits that the CRCL, New Delhi has also reported that the Areca Nut is not fit for human consumption, whereas the Department has ordered for provisional release of the same on furnishing the bond and bank guarantee.

4.11 He further submits that the test report of National Food Laboratory, Ghaziabad, wherein the samples were declared as "fit for human consumption", should be given preference over the test report of CRCL, New Delhi, because National Food Laboratory is appropriate FSSAI approved laboratory and it has tested the samples as per the procedure prescribed in the Food Safety & Standards (Food Products Standards and Food Additives) Regulations, 2011.

5. On the other hand, the learned Special Counsel for the Department justifies the impugned Provisional Release Order. He further submits that the Department is well within its power to impose conditions to safeguard the revenue while provisionally releasing the goods and it is purely discretionary and is not subject to judicial scrutiny. He further submits that the impugned Provisional Release Order has been passed keeping in view the CBIC Circular No. 35/2017-Cus dated 16.08.2017 which provides a guiding principle for bond and bank guarantee.

6. We have considered the submissions made by both the parties and perused the material on record. We find that the Appellant have challenged the impugned order on the ground that the conditions for

provisional release of the goods are arbitrary, onerous and unreasonable.

7. Further, we find that in the present case, the goods 'Areca Nuts' were imported from Sri Lanka and were classified under CTH 08028090, whereas as per the Customs Department, the imported goods should be classified under CTH 2008. In order to verify the exact nature of goods, samples were drawn and the same were sent to CRCL, New Delhi; and CRCL, New Delhi vide its test report dated 04.07.2025, reported that the goods are 'Roasted Areca Nuts' and are 'unfit for human consumption'. The Appellant being not satisfied with the said report of CRCL, New Delhi, requested the Department for re-testing from any other FSSAI approved laboratories/referral lab. Subsequently, on the Appellant's request, one part of the samples was sent to CRCL, New Delhi again to ascertain the nature of the goods and another part of the samples was sent to National Food Laboratory, Ghaziabad to ascertain whether the samples are fit for human consumption or not. Further, we find that the CRCL, New Delhi vide its test report dated 06.11.2025 again declared the samples as 'Roasted Areca Nuts' on the basis of physical appearance, whereas National Food Laboratory, Ghaziabad vide its test report dated 13.10.2025 declared that the samples are 'fit for human consumption'.

8. Further, we find that the report of CRCL, New Delhi cannot be relied upon in the present case because the Chemical Examiner, who analyzed the samples, is not a food analyst and he has not

conducted the test as per the procedure prescribed under Food Safety & Standards (Food Products Standards and Food Additives) Regulations, 2011, and has declared the classification of the goods only on the basis of visual inspection, which is not permissible in law. It has been consistently held by the Courts that classification of the product is determined on the basis of General Rules for Interpretation, Section Notes and Chapter Notes, and not on visual inspection. In this regard, we may refer to the recent judgment of the Hon'ble Bombay High Court in **Writ Petition No. 3161 of 2026** decided on **06.03.2026** titled as **NBG International Private Limited vs. Union of India and others**, wherein the Hon'ble Bombay High Court has examined the identical issue of Areca Nuts which were seized by the Customs Department, and onerous, unreasonable and arbitrary conditions of bank guarantee were imposed for its provisional release. The Hon'ble Bombay High Court, after considering submissions of both the parties at length and after considering the procedure for testing the said goods, has quashed and set aside the demand of furnishing bank guarantee for its provisional release. Relevant findings of the Hon'ble Bombay High Court are reproduced herein below:

**"16.** We are thus in agreement with the contentions as made on behalf of the Petitioner that once the FSSAI has cleared the imported goods as fit for human consumption, and also has specified the moisture content in the said test reports, then to question the wisdom of FSSAI, would not be an appropriate approach on the part of the Respondents, as the FSSAI itself being a statutory body is recognized under the Rules to certify the imports. It is not disputed on behalf of the Respondents that the FSSAI is acting under various rigorous provisions of the statute and also the stringent

Rules and Regulations framed thereunder. Further, the Respondents have not been able to give any plausible or satisfactory explanation as to why re-testing/re-examination of the imported goods was sought to be done by the Respondents. Learned counsel for the Respondents has tried to canvass the argument that the imported goods are not fit for human consumption by placing reliance on the test reports issued by CRCL basis the observation by CRCL that some parts of the imported goods were damaged nuts and the damage was primarily on account of mould or insects. We are not in agreement with the aforesaid submission, considering the reports of the FSSAI. Even assuming that a minuscule percentage of the goods which are agricultural products, are stated to be damaged, it cannot be that the same yardstick is applied to the entire consignment. If such tests are applied to the several range of agricultural products domestically available from the indigenous sources, it would be impossible for any agricultural produce to have a market. Illustratively, 10 grains from a sample of 1000 grains cannot be determinative of the standard of the majority of the grains. The FSSAI reports cannot be disregarded, which was made available immediately after the samples of the imported goods were drawn for testing.”

The Hon’ble Bombay High Court has also considered the procedure prescribed in Food Import Manual issued by FSSAI to be followed in conducting the laboratory test on roasted areca nuts and has observed as under:

“**18.** Further, the Food Import Manual issued by FSSAI clearly specifies the steps to be taken insofar as laboratory analysis is concerned. It is only after this laboratory analysis is made, that a NOC is issued by the FSSAI and then on the basis thereof, the goods can be released. \* \* \* \* \*

It is seen from the above procedure that insofar as laboratory analysis is concerned, the analysis and test reports are made by FSSAI within five days from the date of receipt of sample with conclusive opinion about the product tested as conforming or non-conforming. This goes on to show that the tests conducted by the FSSAI are of precise nature and high standards of

testing are ensured and made applicable before clearing the food suitable for human consumption. In this view of the matter, we are of the opinion that any window for reclassification of the categorised goods, itself is not on a sound premise, in the facts and circumstance of the case.

**19.** In the light of the aforesaid discussion, we are of the firm opinion that the action of the Respondents to detain the Petitioner's imports in question, is not justified. \* \* \*  
\* \* \*"

9. Further, we find that the Customs Department from very beginning, has not acted in accordance with regulations issued by the FSSAI (Import Regulation) wherein it has been specifically provided that samples of food items should be sent to the nearest FSSAI approved laboratory. Further, we find that National Food Laboratory, Ghaziabad has tested the samples of the goods in accordance with FSSAI regulations and has clearly held that the goods are 'fit for human consumption', whereas CRCL, New Delhi has declared the goods as 'unfit for human consumption'.

10. Further, we find that the impugned order has been passed mainly relying upon the guidelines laid down vide Circular No. 35/2017-Cus dated 16.08.2017 to impose such harsh conditions. We find that the said circular has been struck down by the Hon'ble Delhi High Court in the case of **Additional Director General vs. Its May Name Pvt Ltd – 2021 (375) ELT 545 (Del.)** and was held to be bad in other cases also.

11. Further, we find that in the case of **Principal Commissioner of Customs vs. N & N Traders** (supra), it has been observed by the Tribunal that the Chemical Examiner of CRCL has no role to play

in the classification because classification is part of assessment which is an appealable order. The Chemical Examiner should say what the goods are, what is the purity etc. We, therefore, find that the allegation of mis-declaration of the nature of goods is not very serious especially since it is based on somewhat ambiguous test report of CRCL.

12. Further, we also note that Hon'ble Madras High Court in the case of **Commissioner of Customs vs. Shahnaz Commodities International Pvt Ltd** (supra) has examined the issue of classification of Areca Nuts and observed as under:

**"16.** *To sum up :*

(a) Roasting is a process treated to be distinct from the process of boiling and drying, in fixing the classification in respect of betel/areca nut under CTH.

(b) Roasted betel/areca nut having been specifically classified under CTH 2008 19 20, the attempt to classify under CTH 0802 80 would fall foul of the settled rule of construction that specific entry would prevail over general entry.

(c) HSN explanatory notes is normally a safe guide in determining classification under CTH. Roasted areca/betel nut having been mentioned in CTH 2008 19 20 under HSN, the impugned Ruling is in consonance with HSN classification.

(d) When there is a specific entry covering a product/commodity, the test of common parlance is irrelevant in determining classification."

13. Therefore, considering the totality of the facts & circumstances and the decision of Hon'ble Madras High Court in the case of **Commissioner of Customs vs. Shahnaz Commodities International Pvt Ltd** (supra), and the fact that reports of CRCL, New Delhi the goods on visual inspection, which is not permitted in law, and also the fact that the Chemical Examiner of CRCL, New

Delhi, who furnished the report is not a food analyst, we are of the considered view that requirement of bank guarantee is clearly arbitrary and unreasonable, and the same cannot be sustained. Accordingly, the detained goods are directed to be released, subject to fulfillment of the conditions of the impugned Provisional Release Order except requirement of furnishing the bank guarantee.

14. It is however made clear that this order will not affect the merits of the controversy which will be finally adjudicated upon in accordance with the law independently.

15. Accordingly, the appeal is allowed on the above terms.

(Order pronounced in the open court on 10.04.2026)

**(S. S. GARG)**  
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**  
**MEMBER (TECHNICAL)**