* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Reserved on: 14th January, 2026***

Pronounced on: 9th February, 2026

\+ **W.P.(C) 18556/2025**

M/S BHAGWAN CORPORATION

(THROUGH PROPRIETOR: SMT. ANJU GOSWAMI)

R/O: A 202, LEGEND CHSL,

LOKHANDWALA, ANDHERI WEST,

MUMBAI, MAHARASHTRA- 400053

(M): +91 9899152565 .....**PETITIONER**

Through: Mr. Pradeep Jain, Mr. Sambhav Jain and Mr. Pranav Raj Singh, Advs.

versus

COMMISSIONER OF CUSTOMS

ICD PATPARGANJ

R/O GALI NO. 2, GHAZIPUR VILLAGE,

GHAZIPUR, DELHI, 110096

(M): 011- 21211110

.....**RESPONDENT NO. 1**

ADDITIONAL COMMISIONER OF

CUSTOMS

R/O GALI NO. 2, GHAZIPUR VILLAGE,

GHAZIPUR, DELHI, 110096

(M): 011- 21211880 .....**RESPONDENT NO. 2**

Through: Mr. Gibran Naushad, Senior Standing Counsel with Mr. Harsh Singhal and Mr. Suraj Shekhar Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT

AJAY DIGPAUL, J.

1. The instant petition under Article 226 of the Constitution has been filed on behalf of the petitioner seeking the following reliefs:

> *"A)* ***Issue a Writ of Certiorari****, or any other appropriate writ, order, or direction, quashing and setting aside the* ***Order-in-Original No. 17/ADC/Bhagwan Corporation/ICD-PPG/2021-22 dated 24.09.2021*** *passed by the Respondent No. 2,* ***to the extent it directs absolute confiscation of the imported goods without affording the Petitioner the statutory option of redemption fine under Section 125 of the Customs Act, 1962;***

B) Quash and set aside *the consequential* ***Order-in-Appeal dated 17.01.2024*** *passed by the Commissioner of Customs (Appeals), whereby the Petitioner's appeal was dismissed solely on limitation, without consideration on merits;*

C) Direct the Respondent Authorities *to grant the Petitioner the statutory option of redemption of the confiscated goods on payment of appropriate redemption fine in lieu of absolute confiscation under* ***Section 125 of the Customs Act, 1962****, as per law;*

D) ***Quash and set aside*** *the penalty of ₹30,00,000/- imposed under Section 112(a)(i) of the Customs Act, 1962, being arbitrary, excessive, and imposed without any finding of intent, suppression, or mens rea;*

E) ***Direct the Respondent Authorities to permit the Petitioner to physically*** *inspect the seized goods either in person or through an authorized representative, under proper supervision, so as to verify the condition and quality of the goods and to facilitate fair adjudication;*

F) ***Direct the Respondent Authorities to issue a Detention, Demurrage, and Warehousing Charges Waiver Certificate*** *in respect of the Petitioner's imported goods, which have been wrongfully detained/seized pursuant to the impugned proceedings, as the goods have been unjustifiably withheld solely on the basis of a single and disputed laboratory report, without affording any opportunity of re-testing, cross-examination, or verification in accordance with law; and consequently, the Petitioner cannot be burdened with detention, demurrage, or warehousing charges accrued due to the unlawful and arbitrary actions of the Respondents.;*

G) ***Pass such other and further orders or directions as this Hon'ble Court*** *may deem just, fit, and proper in the facts and circumstances of the case and in the interest of justice."*

Factual Matrix

2. The petitioner, M/s Bhagwan Corporation, a proprietorship concern through its proprietor Smt. Anju Goswami, is engaged in the business of import and trading of *betel nuts*, primarily boiled betel nuts, sourced mainly from Indonesia. The firm holds Importer Exporter Code ("IEC" hereinafter) No. ARNPG8663M and has been regularly undertaking such imports through declared and lawful channels.

3. In the ordinary course of its business, the petitioner imported two consignments of boiled betel nuts from Indonesia and filed *Bill of Entry No. 9396149 dated 31.10.2020 and Bill of Entry No. 9829340 dated 04.12.2020* at ICD Patparganj, New Delhi. The goods were declared as *Boiled Betel Nuts* and classified by the petitioner under Customs Tariff Heading ("CTH" hereinafter) 2106 90 30. The total assessable value of the two consignments was declared as ₹1,13,17,725/-, comprising ₹45,10,687.50/- for the first consignment and ₹68,07,037.50/- for the second.

4. The Bill of Entry dated 31.10.2020 was initially marked to the Faceless Assessment Group but was later marked for first check examination on 02.12.2020. The Bill of Entry dated 04.12.2020 was assessed by the Faceless Assessment Group on 07.12.2020. Samples from both consignments were drawn by the customs authorities and sent

to the Central Revenues Control Laboratory ("CRCL" hereinafter), New Delhi vide Test Memo Nos. 133 dated 24.12.2020 and 135 dated 29.12.2020 for determination of the nature and composition of the goods. Pending receipt of test results, the goods were warehoused under Section 49 of the Customs Act, 1962.

5. On 30.12.2020, a confidential analysis report bearing F. No. IV(1)/3/2015/RMD was received from the Additional Director General, Risk Management Centre for Customs (RMCC), Mumbai, indicating that certain importers were allegedly misclassifying areca nuts to circumvent the Minimum Import Price ("MIP" hereinafter) conditions applicable to *areca nuts*.

6. CRCL issued its Test Report No. CRCL/21/972(1) dated 22.01.2021 in respect of Bill of Entry No. 9396149 and Test Report No. CRCL/21/973(1) dated 25.01.2021 in respect of Bill of Entry No. 9829340. The said reports record that the samples were in the form of brown coloured WHOLE ARECA NUTS with defective and broken pieces, did not contain additives such as catechu, lime, or tobacco, and did not meet the moisture content requirement for ARECA NUTS as per IS:16962:2018. The reports further stated that the samples were "other than betel nut product known as 'supari'" as mentioned in Supplementary Note 2 of Chapter 21 of the Customs Tariff.

7. Upon receipt of the CRCL reports, the petitioner made repeated written representations seeking re-testing or re-analysis of the samples. On 12.02.2021, the petitioner submitted a detailed clarification in

response to departmental correspondence dated 09.02.2021, enclosing a certificate from the Ministry of Health, Republic of Indonesia certifying the goods as boiled betel nuts, a Phytosanitary Certificate dated 28.09.2020, an Advance Ruling dated 31.03.2017 in M/s Oliya Steel Pvt. Ltd., and a copy of the judgment of the Madras High Court in ***M/s Esha Exim v. ADG, DRI [2018 (1) TMI 1027]***. The petitioner specifically requested retesting by CRCL to conclusively determine classification.

8. The petitioner reiterated its request for re-testing and correction of the laboratory report by letter dated 22.02.2021 addressed to the Chemical Examiner, CRCL, New Delhi. Further reminders were sent by email to the Commissioner of Customs, ICD Patparganj on 01.03.2021 and 06.03.2021, requesting deferment of adjudication proceedings until retesting was completed. A further communication was addressed to CRCL on 04.05.2021. No re-testing was permitted.

9. Thereafter, the Department issued a Show Cause Notice dated 19.05.2021, bearing C. No. VIII(B)40/ICD Patli/Bhagwan/WH/87 /2020/3063, proposing reclassification of the imported goods under CTH 0802 80 10 as areca nuts, confiscation of the goods under Sections 111(d) and 111(m) of the Customs Act, 1962, and imposition of penalty under Section 112(a)(i). The petitioner submitted an interim reply to the Show Cause Notice by email dated 04.08.2021. Pursuant thereto, the Additional Commissioner of Customs, ICD Patparganj, passed Order-in-Original No. 17/ADC/Bhagwan Corporation/ICD-PPG/2021-22 dated 24.09.2021. By this order, the Adjudicating Authority rejected the

petitioner's declared classification under CTH 2106 90 30 and reclassified the goods under CTH 0802 80 10. The two consignments, valued at ₹45,10,687.50/- and ₹68,07,037.50/-, were ordered to be absolutely confiscated under Sections 111(d) and 111(m) of the Customs Act, 1962, without granting any option of redemption under Section 125. A penalty of ₹30,00,000/- was imposed on the petitioner under Section 112(a)(i) of the Act.

10. Aggrieved by the Order-in-Original, the petitioner preferred an appeal before the Commissioner of Customs (Appeals) on 10.11.2022. The appeal was filed with a delay of 156 days, beyond the condonable period. The Appellate Authority dismissed the appeal solely on the ground of limitation, without examining the merits of the case, vide Order-in-Appeal No. CC(A) CUS/D-II/PPG/157/2023-24 dated 17.01.2024.

11. The petitioner's grievance, in the present petition, is confined to the direction of "absolute confiscation" of the imported goods and the "denial of the statutory option of redemption under Section 125 of the Customs Act, 1962". The petitioner does not dispute the classification as determined in the Order-in-Original. Having been left without an efficacious alternative remedy due to dismissal of the statutory appeal on limitation, the petitioner filed the present Writ Petition seeking directions of setting aside of the impugned order to the extent they direct absolute confiscation without offering redemption.

Submissions on behalf of the petitioner

12. Mr. Pradeep Jain, learned counsel appearing on behalf of the petitioner submits that it is a *bona fide* importer, engaged in the lawful business of import and trading of betel nuts, primarily boiled betel nuts, sourced from Indonesia. The petitioner submits that it holds a valid IEC and has consistently imported such goods through declared channels, supported by valid commercial invoices, phytosanitary certificates, and health certificates issued by the competent authorities of the Republic of Indonesia.

13. The imports were not concealed or misdeclared and were accompanied by all requisite documents. During routine examination, samples were drawn and sent to the CRCL. Pending test results, the goods were permitted to be warehoused under Section 49 of the Customs Act, 1962, demonstrating that the Department itself did not treat the goods as prohibited at the relevant time. The CRCL reports did not conclusively determine that the goods were raw areca nuts, nor did they rule out that the goods were boiled or processed betel nuts as declared by the Petitioner.

14. Upon receipt of the CRCL reports, the petitioner promptly and repeatedly sought re-testing or re-analysis to conclusively establish the correct nature and classification of the goods. Detailed representations were made on 12.02.2021, 22.02.2021, 01.03.2021, 06.03.2021, and 04.05.2021. Along with these representations, the Petitioner placed on record a certificate from the Ministry of Health, Republic of Indonesia, a

Phytosanitary Certificate dated 28.09.2020, an Advance Ruling dated 31.03.2017 in the case of ***M/s Oliya Steel Pvt. Ltd.***, and the judgment of the Madras High Court in ***M/s Esha Exim (Supra)***. Despite these materials, no re-testing was allowed and no reasoned response was provided.

15. The petitioner submits that the denial of re-testing and refusal to permit physical inspection of the goods, despite repeated written requests, amounts to a clear violation of Section 122A of the Customs Act, 1962 and the principles of natural justice. The adjudication proceeded solely on the basis of an inconclusive laboratory report, depriving the petitioner of a fair opportunity to rebut the Department's proposed reclassification.

16. It is submitted that while the adjudicating authority reclassified the goods under CTH 0802 80 10, the petitioner does not challenge the classification for the purposes of the present writ petition. The grievance is confined to the direction of absolute confiscation of the goods valued at ₹45,10,687.50/- and ₹68,07,037.50/-, without granting the statutory option of redemption under Section 125 of the Customs Act, 1962, and the imposition of penalty of ₹30,00,000/- under Section 112(a)(i). It is submitted that Section 125 of the Customs Act, 1962 mandates that where confiscated goods are not prohibited, the Adjudicating Authority ordinarily give an option to pay redemption fine in lieu of confiscation. The impugned Order-in-Original does not record any finding that the goods were prohibited goods under any statute, notification, or policy.

On the contrary, the record shows that the goods were imported through declared channels, warehoused under Section 49, and accompanied by valid certificates.

17. The petitioner submits that absolute confiscation is an extreme measure reserved for prohibited or hazardous goods. In the present case, neither the Show Cause Notice nor the Order-in-Original records any finding of prohibition, fraud, suppression, or *mens rea*. Despite this, the adjudicating authority ordered absolute confiscation without recording reasons for denying the statutory option of redemption, rendering the order arbitrary and contrary to law.

18. The petitioner further submits that the penalty of ₹30,00,000/- under Section 112(a)(i) has been imposed without any finding of wilful misstatement, suppression of facts, or intent to evade duty. The imports were openly declared, supported by documents, and subjected to examination and testing by the Department itself.

19. The petitioner submits that it preferred a statutory appeal before the Commissioner of Customs (Appeals) on 10.11.2022. The appeal was filed with a delay of 156 days. The Appellate Authority dismissed the appeal solely on the ground of limitation, without examining the merits of the case, vide Order-in-Appeal dated 17.01.2024. As a result, the petitioner has been left without any efficacious alternative remedy.

20. In these circumstances, the petitioner submits that the impugned orders, to the extent they direct absolute confiscation without offering redemption under Section 125 of the Customs Act, 1962, are illegal,

disproportionate, and violative of Article 14 of the Constitution. The petitioner, therefore, seeks interference by this Court, limited to granting the statutory option of redemption and consequential reliefs as prayed for in the writ petition.

Submissions on behalf of the respondents

21. *Per Contra*, Mr. Gibran Naushad, learned SSC for the Department vehemently opposed the present petition submitting to the effect that the during the relevant period, departmental intelligence and Risk Management Centre (RMCC) inputs highlighted a pattern of misclassification of *areca nuts* as processed goods to circumvent the Minimum Import Price (MIP) of ₹251/kg. A Modus Operandi Circular and directives issued by Commissioner of Customs, Ludhiana required stricter scrutiny of such imports.

22. The petitioner had sought to import the prohibited goods by misclassifying them under Chapter 21 instead of Chapter 8. Under Note 3 to Chapter 8, *areca nuts*, whether whole or subjected to processes such as boiling for preservation, continue to fall under CTH 0802 80 10. The imported goods, being, whole boiled betel nuts, did not qualify as a "preparation" under Supplementary Note 2 to Chapter 21, and were therefore correctly reclassified as areca nuts.

23. Once correctly classified under CTH 0802 80 10 (areca nuts), DGFT Notification no. 20/2015-20 dated 25.07.2018 read with Section 3 of the Foreign Trade (Development and Regulation) Act, 1992 read with

Section 11 of the Act is applicable thereby prohibiting Areca Nuts imports under Chapter 8, having CIF value less than ₹251/kg. It submitted that the declared CIF value by the petitioner, which was USD 1.125/kg (₹83.50-84.04/kg), fell below the mentioned threshold, rendering the goods prohibited for import.

24. It is also submitted that there has been no procedural inconsistency in the present case inasmuch as the petitioner was granted an opportunity of personal hearing and the same was duly attended by the authorized representative of the petitioner as well as the written submissions were also considered as is depicted in the Order-in-Original.

25. Further, it is clear from the bare reading of the Order-in-Original that the petitioner's conduct crystallizes an unlawful attempt, to import goods by cleverly flouting rules of prohibition *qua* the goods in question, by furnishing incorrect description of their goods as 'Boiled Betel Nuts' and deliberately misclassifying. Moreover, to justify the said misclassification vide their written submission dated 04.08.2021, the petitioner falsely placed reliance on a ruling which was no longer legally valid as the same was overruled and much before 04.08.2021.

26. As regards the petitioner's plea for redemption, it is submitted that the option of redemption under Section 125 is not an absolute right, particularly where the goods are held to be prohibited or restricted under the applicable law. Section 125(1) of the Customs Act uses the expression "may", vesting discretion in the adjudicating authority. In the present case, considering the nature of violation and statutory prohibition

flowing from the applicable notifications and MIP condition, absolute confiscation was lawfully ordered.

27. It is further submitted that the petitioner's statutory appeal under Section 128 of the Customs Act, 1962 was filed with a delay of 156 days, beyond the condonable period. The Commissioner (Appeals) was therefore justified in dismissing the appeal on limitation, and the petitioner cannot reopen findings of the Order-in-Original under writ jurisdiction at this stage. The respondents thus submit that the writ petition, confined as it is to the issue of redemption while accepting the classification is not maintainable, and the penalty and confiscation ordered in accordance with law do not warrant interference. The present petition is merely tactics on the part of the petitioner to circumvent the issue of limitation. Therefore, it is prayed that the petition may be dismissed.

Analysis and findings

28. Heard learned counsel for the respective parties and perused the material available in record.

29. The present writ petition has been instituted assailing the Order-in-Original dated 24.09.2021, passed by the Additional Commissioner of Customs, ICD Patparganj, and the consequential Order-in-Appeal dated 17.01.2024, passed by the Commissioner of Customs (Appeals), only to the limited extent that the adjudicating authority ordered absolute confiscation of the imported goods without grant of redemption under

Section 125 of the Customs Act, 1962, along with consequential reliefs of waiver of warehouse charges and demurrage, retesting, and setting aside of penalty.

30. At the outset, it is pertinent to state that it is an admitted position on record that the petitioner has not challenged the classification of the goods as determined in the Order-in-Original, nor has any perversity in the findings on merits been pleaded.

31. The factual chronology is also not in dispute. The petitioner filed two Bills of Entry, declaring the goods as "Boiled Betel Nuts" under CTH 2106 90 30. Samples were drawn and sent to the CRCL. Based on the CRCL reports, the Modus Operandi Circular, the report of ADG (RMCC), Mumbai, and DGFT Notification No. 20/2015-20 dated 25.07.2018, a Show Cause Notice dated 19.05.2021 was issued proposing reclassification under CTH 0802 80 10, confiscation under Sections 111(d) and 111(m), and penalty under Section 112(a)(i) of the Customs Act, 1962.

32. The Order-in-Original dated 24.09.2021 reclassified the goods as Areca Nuts under CTH 0802 80 10, held the goods to be prohibited in view of the Minimum Import Price (MIP) condition of ₹251 per kg, ordered absolute confiscation, and imposed a penalty of ₹30,00,000/-.

33. The Order-in-Original records detailed reasons in paragraphs 42 to 49 for denying redemption, including deliberate misdeclaration on the petitioner's instance, import of prohibited goods, and an attempt to

circumvent the MIP/CIF condition. For reference, paragraph nos. 42 to 49 of the Order-in-Original are as follows:

> *"42. In view of the above statutory provisions read with Section 3(2) of the FTDR Act, 1992, the power to modify/amend, from prohibited to restricted and from restricted to free or otherwise regulating in all cases of import/export, is vested only with the Central Government and not with any quasi-judicial authority. Further in terms of Section 3(3) of the FTDR Act, 1992 when read with Section 11 and Section 111 of the Customs Act, 1962 the goods under reference imported at declared value of Rs. 83.50 and Rs. 84.04 per kg CIF is much below the MIP fixed i.e. @Rs.251 per kg, therefore, becomes prohibited for import. It is further seen that the said DGFT notification does not provide relief to the importer by way of allowing the quasai-judicial authority to enhance the declared from Rs. 83.50 and Rs. 84.04 per kg CIF value to Rs. 251 per Kg and allow import on exercising the power of redemption u/s 125 of the Customs Act, 1962. As this would tantamount to amending the EXIM policy for which the authority is not vested with me.*
>
> *43. It is important to note that Section 11 (1) of the Customs Act, 1962 makes it unambiguously clear that If the Central Government …….. by notification in the Central Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification. I find that DGFT Notification No. 20/2015-20 dated 25.07.2018 is a notification issued in terms of Section 11(1) of the Customs Act, 1962 read with Section 3(2) and Section 6(3) of the FTDR Act 1992. Due to infringement of its condition the imported goods becomes prohibited in absolute terms on policy angle. Since absolute prohibition comes into operation in the instant case, due to lower declared CIF*

import value, the statutes does not provide option to allow the goods for export on redemption as requested by the importer.

44. I further find that any imported goods when declared as Prohibited by the DGFT is in accordance with the Import Policy (FTP). Therefore, any release thereto of such prohibited goods after imposition of redemption fine as under Section 125 of the Customs Act, 1962 would be in contravention to the Import Policy for which Central Government is the competent authority and such power is not vested with me. Accordingly, their request for re-export cannot be considered for want of authority in law.

45. It is also seen that goods are correctly classifiable under CTH 080208010, as discussed above. Hence, the provisions of DGFT Notification No. 20/2015-20 dated 25.07.2018 becomes squarely applicable in the instant case. The declared CIF value of Rs. 83.5/ Kgs and 84.04/Kgs under BE No. 9396149 dated 31.10.2020 and 9829340 dated 04.12.2020 respectively are less than the statutory value of Rs. 251/- per kg, therefore, in terms of Section 3(2) of Foreign Trade (Development and Regulation) Act, 1992 read with Section 11 of the Customs Act 1962, the imported goods covered under BE No. 9396149 dated 31.10.2020 and 9829340 dated 04.12.2020 becomes prohibited for import. Therefore, once the imported goods have become prohibited goods the same shall be dealt as per law for the time being in force.

46. I thus find that the importer rather than placing reliance on the statutes governing classification as provided in the Customs Act, 1962, they preferred to rely on Advance Authority Rulings and supplier's documents. I see this as a well thought out plan and deliberate attempt on the part of the importer to hoodwink the Department by mis-declaring the description and seeking inappropriate classification

under CTH 2106 to circumvent the scope of levy of duty based on minimum import price fixed by the government for the import of Areca Nut read with DGFT Notification No. 20/2015-20 dated 25.07.2018. This DGFT notification is in public domain from July, 2018. And the import has been made almost two and half years later. From the discussions above it becomes abundantly clear that unless they inappropriately classified the goods under CTH 2106, they probably would not get their unlawful benefit. This shows that they mis-declared the import goods as boiled betel nuts instead Areca Nuts/ Betel Nuts to suit their intended mis-classification under CTH 2106, so that they go out of the purview of levy of duty @ MIP @ Rs. 251 per kg in terms of the DGFT said notification. By this way they attempted to unduly avail huge financial benefit to which they are certainly not entitled.

47. Ongoing through the entire facts and records of the case. I am of the considered opinion that Boiled Betel Nut (Supari), imported under cover of the BE No. 9396149 dated 31.10.2020 and 9829340 dated 04.12.2020 are correctly re-classifiable under CTH 08028010 as Areca Nuts instead of CTH 21069030.

48. Hence, the impugned goods totally weighing 54 MTS and 81 MTS which were imported at total an assessable value of Rs.4510687.50/- and Rs. 6807037.50/- respectively have thus become clearly prohibited in view of DGFT Notification No. 20/2015-20 dated 25.07.2018 as the declared value is C&F @ Rs. 83.50 and Rs.84.04 per kg as against Minimum Import Price(MIP) @ Rs.251/kg. The said goods cannot be considered for release for the reasons discussed above and prohibition in force. The importer has since deliberately mis-declared and mis-classified the goods with an intent to evade customs duty and have attempted to import prohibited goods unlawfully is also liable to penal action for their acts of omission and commission.

49. I thus find that for their acts of omission and commission a penalty, therefore, is imposable under section 112(i) of the Customs Act, 1962, as they have clearly tried to unlawfully import goods by cleverly passing a prohibition in place, on furnishing inappropriate description of their goods as "Boiled Betel Nuts" and tried to deliberately misclassify them under CTH 21069030 as betel nut preparation which has now been re-classified as Areca nut/betel nut under CTH 08028010. To justify their classification vide their written submission dated 04.08.2021 they falsely placed reliance on a ruling which was no longer legally valid as the same was overruled and much before 04.08.2021 when they filed their submission and appeal for a personal hearing, the issue of classification of the impugned goods have unquestionably attained finality in the backdrop of Hon'ble Apex Court rulings discussed supra in the case of M/ s Ayush Buisness Overseas. In view of the above Discussion & Findings, I proceed to Order as Follows:

ORDER

1. I reject the claimed classification of the impugned goods i.e. Boiled Betel Nuts Supari declared under CTH 21069030 imported vide Bill of Entry 9396149 dated 31.10.2020 and 9829340 dated 04.12.2020, at a declared assessable value Rs.4510687.50/- and Rs. 6807037.50/- respectively at ICD Patli and order for re-classifying the same under CTH 08028010 as Areca Nuts/Betel Nuts.

2. The imported goods of assessable value Rs. 4510687.50/- and Rs. 6807037.50/- with CIF value of Rs. 83.50 and Rs. 84.04 per kg are absolutely confiscated for having been imported in violation of the provisions of Section 46 of Customs Act, 1962 and DGFT Notification NO. 20/2015-20 dated 25.07.2018 read with Section 3(2) of Foreign Trade (Development and Regulation) Act,

1992 and Section 11 and Section 111(d) & (m) of the Customs Act, 1962.

3. I impose a penalty of Rs. 30,00,000/- (Rupees Thirty Lacs Only) under Section 112(a) (i) of the Customs Act, 1962 on the importer M/s Bhagwan Corporation for their acts of omission and commission for rendering the goods liable for confiscation under Section 111 of the Customs Act, 1962."

34. The Adjudicating Authority (in paragraph no. 49 of the Order-in-Original which is reproduced hereinabove) also noted that the petitioner relied upon an advance ruling which had already been overruled prior to the personal hearing on 04.08.2021, thereby recording adverse findings on its conduct.

35. The record reveals that against the Order-in-Original dated 24.09.2021, the statute provided a complete and efficacious appellate remedy under Section 128 of the Customs Act, 1962. The petitioner admittedly availed the said remedy by filing an appeal before the Commissioner (Appeals). However, the appeal was presented with a delay of 156 days, beyond the period prescribed under the statute as well as beyond the outer limit within which delay could be condoned.

36. The petitioner preferred the statutory appeal under Section 128 of the Customs Act ***only on 10.11.2022***, i.e., beyond the statutory period of 60 days, and also beyond the maximum condonable period of 30 days.

37. The Commissioner of Customs (Appeals), by Order dated 17.01.2024, rejected the appeal on the ground of limitation, after

recording that the Order-in-Original had been dispatched on 28.09.2021 by Speed Post, which was not returned **undelivered**, thereby attracting the ***'deemed to be received'*** principle mentioned under Section 153(3) of the Customs Act, 1962. Consequently, the plea that the order was communicated only on 05.11.2022 was rejected.

38. The statutory scheme under Section 128 of the Customs Act is explicit. An appeal must be filed within 60 days, extendable by a further 30 days on sufficient cause being shown. Beyond this absolute limit of 90 days, the appellate authority lacks jurisdiction to condone delay.

39. The present writ petition was filed only in December 2025, nearly four years after the Order-in-Original dated 24.09.2021 and two years after the Order-in-Appeal dated 17.01.2024. The pleadings do not disclose any cogent or continuous explanation for this prolonged delay. Further, subsequent dismissal of the statutory appeal, on limitation, does not furnish a fresh cause of action.

40. The appellate authority, therefore, correctly declined to entertain the appeal, and no infirmity is present in the said order to this aspect.

41. Significantly, in the present writ petition, the petitioner has not laid any challenge to the finding of the appellate authority on limitation. No pleadings, grounds, or arguments advanced assail the correctness or legality of the order rejecting the appeal as time-barred. The grounds argued by the petitioner before the Commissioner (Appeals) *qua* limitation were rejected being bereft of any merits. In the absence of any

such challenge now, the order of the Commissioner (Appeals) has attained finality.

42. It is well settled that writ jurisdiction under Article 226 of the Constitution is discretionary and equitable, and unexplained delay and laches disentitle a litigant to relief. Further, it is trite law that a party who allows a statutory order to attain finality cannot be permitted to indirectly assail the same by invoking the extraordinary jurisdiction under Article 226 of the Constitution. The writ court is not intended to function as a substitute for a statutory appellate forum. The said principle was also observed by the Hon'ble Supreme Court in ***Thansingh Nathmal v. Supdt. of Taxes, 1964 SCC OnLine SC 13***, relevant paras of which are as under:

> *"**7.** Against the order of the Commissioner an order for reference could have been claimed if the appellants satisfied the Commissioner or the High Court that a question of law arose out of the order. But the procedure provided by the Act to invoke the jurisdiction of the High Court was bypassed, the appellants moved the High Court challenging the competence of the Provincial Legislature to extend the concept of sale, and invoked the extraordinary jurisdiction of the High Court under Article 226 and sought to reopen the decision of the Taxing Authorities on question of fact. The jurisdiction of the High Court under Article 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the Articles. But the exercise of the jurisdiction is discretionary : it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations. Resort that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by*

statute. Ordinarily the Court will not entertain a petition for a writ under Article 226, where the petitioner has an alternative remedy, which without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a court of appeal against the decision of a court or tribunal, to correct errors of fact, and does not by assuming jurisdiction under Article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit by entertaining a petition under Article 226 of the Constitution the machinery created under the statute to be bypassed, and will leave the party applying to it to seek resort to the machinery so set up."

43. The doctrine of delay and laches in writ petitions has also been discussed by the Hon'ble Supreme Court in ***Chennai Metropolitan Water Supply v. T.T. Murali Babu, (2014) 4 SCC 108*** whereby it was held that a person who is indolent and negligent in pursuing remedies cannot invoke the discretionary and equitable jurisdiction of this Court under Article 226. Relevant paragraph of the said judgment is as under:

"16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not.

> *Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.*
>
> *17. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons - who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."*

44. In fiscal matters, courts have consistently emphasised certainty, finality, and strict adherence to timelines.

45. The petitioner's attempt to invoke Article 226 after having lost the statutory remedy by its own inaction cannot be countenanced. The Hon'ble Supreme Court has repeatedly held that writ jurisdiction cannot

be used to bypass statutory remedies, especially where the litigant has disabled itself by delay.

46. On the scope of relief sought *qua* option of redemption, Section 125(1) of the Customs Act employs the expression *"may"*, thereby conferring discretion upon the adjudicating authority to grant, or deny redemption, particularly in cases involving prohibited goods. The statute does not create an absolute or vested right to redemption.

47. In the present case, the adjudicating authority has recorded detailed reasons for treating the goods as prohibited on account of MIP/CIF violation and deliberate misclassification, and for denying redemption. No case of perversity, lack of jurisdiction, or violation of natural justice is made out to warrant interference under Article 226.

48. The ancillary reliefs sought, namely waiver of warehouse charges and demurrage, retesting of goods, and setting aside or reduction of penalty, are entirely consequential and intrinsically linked to the validity of confiscation and penalty imposed under the Order-in-Original.

49. Once the confiscation and penalty have attained finality, no independent consideration of these issues arises. The Customs Act provides specific appellate mechanisms for challenging penalty quantification and confiscation, and writ jurisdiction cannot be converted into a surrogate appellate forum to bypass the statutory provisions, legislative intent and objective of prohibiting import of certain goods.

50. The record further shows concurrent findings by the Customs Preventive authorities, including directions dated 25.11.2020, the Modus

Operandi Circular, and the report of ADG (RMCC), Mumbai, regarding widespread misclassification of boiled betel nuts to evade MIP/CIF conditions. The *petitioner's conduct*, as recorded in the Order-in-Original, including reliance on overruled rulings and failure to seek provisional release or interim custody, reinforces the conclusion that no equitable relief is warranted at this belated stage.

51. At this juncture, it is also relevant to note that the petition has made submission to the effect that the department may inform them about the status of the goods and whether they have been auctioned or not. The petitioner's submission seeking information or directions regarding the status of auction or disposal of goods does not merit acceptance. Once the petitioner failed to challenge the Order-in-Original within the statutory period, all consequential proceedings undertaken in accordance with law cannot be interdicted in writ jurisdiction. The record further does not disclose any positive or contemporaneous steps taken by the petitioner, either prior to the passing of the Order-in-Original or immediately thereafter, to seek appropriate relief regarding valuation of the goods. No explanation is forthcoming as to what prevented the petitioner from seeking such remedies at the relevant stage.

52. Permitting the petitioner to agitate such issues at this belated stage would defeat the object of finality attached to statutory adjudication and appellate processes.

53. The Customs Act, 1962 is a fiscal statute. This Court is of the view that fiscal statutes must be construed strictly and the conditions

prescribed therein must be scrupulously adhered to. Courts cannot, on equitable considerations, dilute statutory mandates or timelines.

Conclusion

54. The record, when examined holistically, clearly demonstrates that the petitioner's conduct has been evasive, dilatory, and lacking in *bona fides*. The Order-in-Original specifically records that the petitioner sought to justify its declared classification by placing reliance on an advance ruling which had already been overruled well before the personal hearing, thereby reflecting a conscious attempt to mislead the adjudicating authority and to rely on legally untenable material (para 46 and 49 of the Order-in-Original).

55. The petitioner's responses to the departmental proceedings were largely vague, without addressing the core issue of misclassification and violation of the Minimum Impact Price (MIP) condition.

56. Significantly, despite having knowledge of the adverse Order-in-Original dated 24.09.2021, the petitioner did not take any prompt or effective steps to challenge the same within the statutory framework and approached the appellate authority only after an inordinate delay of 156 days, resulting in dismissal of the appeal on limitation, and thereafter invoked writ jurisdiction belatedly.

57. The absence of any timely effort to seek provisional release, interim reliefs, or other appropriate relief from the competent authorities, coupled with the belated assertion of rights before this Court, reinforces the inference that the petitioner never intended, in a *bona fide* manner, to

clear or seek lawful release of the goods. Instead, the overall conduct points towards a calculated strategy to avoid the authorities and, after allowing the proceedings to attain finality, to resurrect stale claims through writ jurisdiction. This pattern of behaviour unmistakably indicates that from the very inception, the petitioner's approach and intention has been to evade statutory consequences rather than to pursue remedies in accordance with law.

58. For all the aforesaid reasons, this Court is of the considered view that the writ petition does not disclose any ground warranting exercise of extraordinary jurisdiction under Article 226 of the Constitution of India.

59. Accordingly, the present writ petition stands dismissed, along with pending application(s), if any.

60. No order as to costs.

61. The judgment be uploaded on the website forthwith.

AJAY DIGPAUL
(JUDGE)

NITIN WASUDEO SAMBRE
(JUDGE)

FEBRUARY 09, 2026/gs/ryp