**(1996) 07 GAU CK 0030**

**In the Gauhati High Court**

**Case No :** Civil Rule No. 451 of 1994

Biplab Rakshit — APPELLANT

Vs

Collector of Customs — RESPONDENT

**Date of Decision :** 04-07-1996

**Acts Referred:**
Customs Act, 1962 — Section 11, 110(2), 11C, 124, 7

**Citation :** (1996) 88 ELT 654

**Hon'ble Judges :** S.L. Saraf, J

**Bench :** Single Bench

**Advocate :** Sukdev Roy and P. Dass, for the Appellant; M.K. Dutta, for the Respondent

## Judgement

S.L. Saraf, J.—This is an application filed by one Biplab Rakshit challenging the seizure of the articles at the Agartala Airport by the Customs Authorities on the ground of illegal import u/s 7(c) of the Customs Act, 1962 and in violation of Section 11, 11C and 11 ibid read with Import Control Order No. 17/55, dated 7-12-1955 and other Notification mentioned in the said order of seizure.

2. The only ground raised by the petitioner before this Court is that no show-cause notice as required u/s 110(2) of the Customs Act, 1962 was issued to him within the statutory period of 6 months, as such the said seizure is bad and illegal and the goods seized should forthwith be released. u/s 110(2) of the Customs Act, 1962 it is provided - where any goods are seized under Sub-section (1) and no notice thereof is given under Clause (a) of Section 124 within six months of seizure of the goods, the goods shall be returned to the person from whose possession they were seized.

3. Admittedly no notice was served on the petitioner within six months from the date of seizure u/s 110(2) of the Customs Act, 1962. The seizure had taken place on 24-12-1993 whereas the show cause notice to the petitioner was issued on 13-9-1994 beyond the period of 6 months. The period of 6 months can however be extended by an order of the Collector of Customs for another period of 6 (six)

 

months on sufficient cause being shown for such extension. Mr. M.K. Dutta, learned counsel appearing for the Respondents however submits that the Provisions of the Customs Act and various orders have been complied with. The Notice issued by the Superintendent (Customs) on 8-7-1994 is sufficient compliance of the Provision of 110(2) of the Customs Act. Mr. Dutta however, unable to produce any documents to show that the Collector has passed any order of extension of the period of notice to be issued u/s 124 of the Customs Act.

4. In my view of the matter the Customs Authorities have failed to exercise the power of extension as provided under the provision 110(2) of the Customs Act. In view of the same I hereby direct the Customs Authorities to immediately return the goods seized by the Custom Authorities from the petitioner. However, if the goods have already been sold by the Customs Authorities, they are directed to make and compensate the petitioner the value of the goods assessed by themselves i.e. Rs. 1,48,039/- at the time of seizure. I direct the Customs Authorities particularly the Respondent Nos. 1, 2 and 3 to pay the said amount of Rs. 1,48,039/- within a period of 8 (eight) weeks from the date of the order. The said amount shall also carry interest @ 18% per annum from 24-6-1994 till the payment is made to the petitioner. The matter is disposed of. There will be no order as to costs.