
(1987) 12 DEL CK 0004
In the Delhi High Court
Case No : Civil Writ No. 3124 of 1987

Kasturi Lal

APPELLANT

Vs

Collector of Customs and Others

RESPONDENT

Date of Decision : 18-12-1987

Acts Referred:

Customs Act, 1962 — Section 110, 110(1)

Citation : (1988) 34 ELT 444

Hon'ble Judges : Yogeshwar Dayal, C.J.; Gian Chand Jain, J

Bench : Division Bench

Advocate : N.C. Chavan, for the Appellant; U.L. Watwani, for the Respondent

Judgement

Yogeshwar Dayal, C.J.—By this writ petition it is prayed that the Panchnamas dated 21st August, 1987 filed as Annexure "A" and "B" whereby the goods of the petitioner were taken away by the Customs Officers may be quashed and the said goods may be ordered to be released.

2. It appears that certain Panchas were called by the Central (Preventive) Branch of Delhi Collectorate to witness the search of the business premises of the petitioner at Nai Sarak, Delhi. By virtue of the search authorisation, the search was conducted and the goods of the descriptions mentioned in the Panchnamas were recovered. In the Panchnama, Annexure "A" it is stated that the Proprietor, Shri K.L. Nagi, petitioner, produced the purchase bills of the said goods. It is then recited in the Panchnama "on reasonable belief by the Customs Officer kept the above said (recovered) goods under detention and take over the same under the provisions of the Customs Act, 1962 for further verification of the lawful importation/ purchases/acquisition/possession etc. of the said goods."

3. Learned Counsel for the petitioner submits that till today no seizure has been effected as contemplated u/s 110(1) of the Customs Act, 1962.

4. Mr. Watwani, learned Counsel for the respondent submits that the seizure has been effected by the Panchnamas themselves.

5. Section 110(1) of the Customs Act, 1962 provides as under :-

"110.(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods :

Provided that where it is not practicable to seize any such goods, the proper officer may serve -on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer."

6. It will be noticed that the pre-condition to seizure is the "reason to believe that the goods are liable to confiscation". It is not necessary that the officer concerned should give his reasons for forming such subjective satisfaction but the fact of subjective satisfaction must appear on the face of the order. So long as the satisfaction is not recorded, there is no right to seize. Till today no order has been passed by any Customs Officer seizing the goods under the reasonable belief as contemplated u/s 110(1).

7. Though the matter was at the show cause stage, however, on reply being filed by the respondent we thought it fit to dispose of the matter.

8. For the aforesaid reasons, the writ petition is allowed. The detention of the goods in dispute is quashed and it is directed that the goods be returned to the petitioner forthwith.

9. There is no order as to costs of the writ petition.