



W.A.Nos.3647 and 3648 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.Nos.3647 and 3648 of 2024
and C.M.P.Nos.28679 and 28696 of 2024

W.A.No.3647 of 2024:

- 1.The Commissioner of Customs,
Chennai Import, Chennai – II Commissionerate,
Customs House, Rajaji Salai,
Chennai-600 001.
- 2.The Additional Commissioner of Customs (Group-1),
Chennai Import, Chennai – II Commissionerate,
Customs House, Rajaji Salai,
Chennai-600 001.
- 3.The Assistant Commissioner of Customs,
Chennai Import, Chennai – II Commissionerate,
Customs House, Rajaji Salai,
Chennai-600 001.
- 4.The Assistant Commissioner of Customs (SIIB),
Chennai – III Commissionerate,
Customs House, Rajaji Salai,
Chennai-600 001.

.. Appellants

vs



W.A.Nos.3647 and 3648 of 2024

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M/s.Universal Impex,
G-39, A.P.M.C. Market – 1, Phase – 2,
Vashi (Turbhe),
Navi Mumbai – 400 705
rep. by its Proprietor Sarfaj Jaliyawala

.. Respondent

W.A.No.3648 of 2024:

1.The Commissioner of Customs,
Chennai Import, Chennai – II Commissionerate,
Customs House, Rajaji Salai,
Chennai-600 001.

2.The Additional Commissioner of Customs (Group-1),
Office of the Commissioner of Customs,
Chennai – II (Imports),
No.60, Rajaji Salai,
Chennai-600 001.

3.The Assistant/Deputy Commissioner of Customs (Group-1),
Office of Commissioner of Customs,
Chennai – II (Imports),
No.60, Rajaji Salai,
Chennai-600 001.

.. Appellants

vs

M/s.Neena Enterprises,
Shop No.8, First Floor 5-1-767/8/FF,
Vithal Das Market, Koti, Hyderabad,
Telangana-500 095
rep. by its Authorised Signatory Gagan Uppal.

.. Respondent



W.A.Nos.3647 and 3648 of 2024

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Prayer: Appeals filed under Clause 15 of the Letters Patent against the common order dated 22.11.2024 passed by the learned Single Judge in W.P.Nos.23836 and 24237 of 2024.

For Appellants
in both appeals : Mr.AR.L.Sundaresan
Addl. Solicitor General of India
for Mr.K.Umesh Rao
Sr. Standing Counsel

For Respondent : Mr.B.Kumar
Senior Counsel
for Mr.B.Sathish Sundar
in W.A.No.3647 of 2024

: Dr.S.Krishnanandh
in W.A.No.3648 of 2024

COMMON JUDGMENT
(Delivered by the Hon'ble Chief Justice)

By consent, the appeals were taken up for hearing at the admission stage.

2. Appellant revenue is impugning an order pronounced on 22nd November, 2024, by which, a learned Single Judge was pleased to quash



W.A.Nos.3647 and 3648 of 2024

the orders-in-original dated 22nd July, 2024 passed by the Additional Commissioner of Customs, Group-1, second appellant herein.

3. As the facts are almost identical, save and except the variance in the Bill of Entry numbers and quantity of goods imported and as what is impugned is a common order and judgment, we decide to dispose these appeals by this common judgment.

4. Respondents had imported goods, which were declared as roasted areca nuts, from Indonesia. According to respondents, these goods would fall under Chapter 20 of Tariff 2008 1920 and were declared as such.

5. According to appellant revenue, what is imported was raw areca nuts, which would fall under Chapter 8 of Tariff 0802 80. Both areca nuts, whether raw or roasted, are not prohibited goods and can be imported. For the importation of raw areca nuts, a minimum price is fixed at Rs.351/- per kg., whereas no such minimum price was fixed for roasted areca nuts.

6. Respondent importers filed applications before the Customs



W.A.Nos.3647 and 3648 of 2024

Authority for Advance Rulings in terms of Section 28H of the Customs Act,

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1962. Applications seeking advance rulings were made on the classification of roasted areca nuts (whole/cut/split), which the party intended to import.

7. In the case of Neena Enterprises, a ruling was given on 1st March, 2023, in which paragraph 6.17 reads as under:

“6.17 Among many objections I find one observation of the jurisdictional Customs Commissionerate quite important. The applicant's claim that after repeated roasting for 2-3 days under 130-150 degrees Celsius in a roasting oven due to which the water content is reduced to 10-15% is a complete misrepresentation of facts. Jurisdictional Commissionerate has stated that it is evident by the fact available with this office vide (based on) test reports that a raw betel nut falling under Chapter 8 has a moisture content of less than 10% and the betel nut undergoing repeated roasting and severe heat treatment has a water content 10 to 15% appears incorrect. I agree with this observation of the Commissionerate. As mentioned earlier, actual samples of the imported goods can be drawn and tested for ascertaining the actual moisture content by the jurisdictional Customs Commissionerate at the time of Customs Compliance Verification (CCV) of the imported goods before clearance (Out of Charge (OOC) is granted to ensure that the goods are conforming to what is declared in the import documents. I also do not agree with the comment of the jurisdictional commissionerate that there was any misrepresentation of facts or non-observance of due process. Applicant has a right to present its case during the course of personal hearing. Veracity of applicant's claim related to issues like moisture content can be very well examined by the jurisdictional Customs Commissionerate at the time of actual import by drawing and testing of the samples of imported goods from the concerned agency.”

8. In the case of Universal Impex, a ruling dated 12th May, 2023 was



W.A.Nos.3647 and 3648 of 2024

given, where paragraph 4.17 reads as under:

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“4.17 I have perused a test report issued by ABC Techno Labs India Pvt. Ltd., Chennai dated 31.3.2023 on the samples of roasted areca nut whole & split in which the test result indicates the moisture content, a test parameter, of the samples in the range of 3.34% to 3.84%. Moisture content in raw areca nut is found to be generally in the range on 10-15%. As per applicant this test report indicates that the products were subjected to the roasting process. This aspect of product testing is a part of Customs Compliance Verification (CCV) process on importation of goods. Jurisdictional Customs Commissionerate carry out process of testing of imported goods with the help of concerned government partner agencies (GPAs) to cross-examine accuracy of declaration of goods in the import documents namely a Bill of entry and it's supporting documents before an out of charge (OOC) is granted. Hence, the utility of sample test report at this stage is limited to only support applicant's contention that the goods were subjected to the process of roasting and not merely to a moderate heat treatment.”

9. Appellants did not permit clearance of the goods holding that what was imported was raw areca nuts and not roasted areca nuts. Show cause notices were issued and orders-in-original dated 22nd July, 2024 were passed holding that the goods imported were raw areca nuts and not roasted areca nuts. The orders-in-original levied various amounts as penalty, customs duty and also ordered for confiscation. Against the orders-in-original, writ petitions were filed and the writ petitions were disposed of by a common order pronounced on 22nd November, 2024 i.e., impugned in these appeals.



W.A.Nos.3647 and 3648 of 2024

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10. The two issues that came up for consideration before the learned Single Judge were: (a) whether the Court should exercise its jurisdiction under Article 226 of the Constitution of India to decide about the nature of imported areca nuts, which were disputed questions of fact and, therefore, respondents should be directed to exercise alternative remedy of filing an appeal?; and, (b) whether the areca nuts imported by respondents were actually roasted areca nuts or raw areca nuts?.

11. Learned Additional Solicitor General of India submitted compilation of test reports. Though these reports do not state that samples tested were drawn in the presence of the importers, still none of the reports says that the moisture content was 10% or above. The highest in one case, we find, is 9.2%.

12. The Authority for Advance Rulings, from the portions quoted above, has indicated that where moisture content in areca nut is found to be in the range of 10-15%, the same would fall under the category of raw areca nut.



W.A.Nos.3647 and 3648 of 2024

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13. Admittedly, in these cases, the moisture contents found were all below 10%. Even in the reports relied upon by learned Additional Solicitor General of India, which were tendered across the bar today, it ranges from 3.79%; 7.9%; 8.1%; 9.2%; 7.8% and 5.4%. The maximum being 9.2%. None of the samples drawn indicate it to be 10% or above.

14. The learned Single Judge has also considered the admitted position that there is no definition as to what is roasted areca nuts. Learned Additional Solicitor General of India pointed out that the learned Single Judge has used his so-called personal experience in view of his family background to determine what is roasted areca nuts or what is raw areca nuts. Even if we ignore that one paragraph from the impugned judgment, still we would find that the learned Single Judge was justified in his approach. Admittedly, the rulings of the Authority for Advance Rulings have attained finality. In fact, it was challenged by the department before this Court in C.M.A.Nos.600, 1206 and 1750 of 2023, which came to be disposed, vide common judgment dated 1st August, 2023. A Co-ordinate Bench of this Court, of which one of us [*Mohammed Shaffiq, J.*] was a member, declined to interfere with the ruling of the Authority for Advance



W.A.Nos.3647 and 3648 of 2024

Rulings. The ruling has, therefore, attained finality.

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15. Therefore, as per the parameters fixed by the Authority for Advance Rulings, if the moisture content is between 10% and 15%, the same would be considered as a raw areca nut and anything below the said category would be considered as roasted areca nut. The said finding has attained finality. All the laboratory reports also state that the moisture content of the areca nuts is below 10%. Therefore, we find no reason to interfere with the impugned order.

16. Appeals are dismissed. There shall be no order as to costs. Consequently, interim applications also stand dismissed. The department shall permit clearance of the goods within a week of this judgment being uploaded.

17. Learned Additional Solicitor General of India indicates that Revenue would be challenging this judgment in the Apex Court.

18. In view thereof, clearance be permitted against the importers



W.A.Nos.3647 and 3648 of 2024

giving a personal bond to be liable for any difference and import duty or

penalty etc.

(K.R.SHRIRAM, C.J.)

(MOHAMMED SHAFFIQ, J.)

04.03.2025

Index : Yes/No

NC : Yes/No

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W.A.Nos.3647 and 3648 of 2024

THE HON'BLE CHIEF JUSTICE
AND
MOHAMMED SHAFFIQ.J.

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W.A.Nos.3647 and 3648 of 2024

04.03.2025