



Cylinders, etc. filled in large, medium and small cylinder, foreign origin chemical handmade screen printing plates, blocks stencils. Subsequently the recovered/seized goods were given under the superdari of accused Muhammad Javed Akhtar (Godown Keeper) with direction not to remove, dispose of, part with alter, sell, mortgage or deal with the seized goods in any kind of circumstances without the prior permissions of the Directorate General, on 17.06.2014, search/stock taking of the godown of M/s. Cool Corporation, Karachi (East) was conducted against proper stock taking/inventory, mushirnama was prepared duly signed by the witnesses. Consequent upon, the search/stock taking it has been found that huge quantity of seized goods given under the superdari of the godown keeper have been misappropriated, removed and illegally disposed of by the owners/godown keeper. Notices under Section 171 of the Customs Act, 1969 were issued against accused persons. Thus the FIR bearing Crime No.M-1911-A/DCI/FIR/2014 for an offence under Section 156(1)(77)(85) of the Customs Act, 1969 was lodged.

3. After usual investigation, charge was framed against accused/respondents to which they pleaded not guilty and claimed to be tried. After examination of witnesses and hearing learned counsel for the parties, learned trial Court by judgment dated **28.02.2020** acquitted accused/Respondents by extending him benefit of doubt. Therefore, the appellant/State has filed instant Special Criminal Acquittal Appeal against the said judgment.

4. I have heard learned Spl. Prosecutor Customs and counsel for the Respondents and perused the record.

5. The perusal of impugned judgment shows that this was the case of no evidence against the respondent/accused, therefore, in the impugned judgment, learned trial Court has observed as follows: -

.....“This FIR is the consequence of earlier F.I.R. lodged against these accused persons. In that earlier case (40/2014) from the godown of the accused persons alleged smuggled refrigerant gas, etc., were recovered. These goods were seized under section 168 of the Act, 1969 and the accused persons were bound down not to remove the goods as these were under detention. This FIR was lodged as it was detected that the accused persons removed the goods from the godown of the accused persons.”.....

.....“Before proceeding further it would be advantageous to reproduce section 168 of the Customs Act, which is as under:-

168. Seizure of things liable to confiscation.- (1)  
The appropriate officer may seize any goods liable to confiscation under this Act, and where it is not practicable to seize any such goods, he may serve on the owner of the goods or any person holding them in his possession or charge an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

(2) Where any goods are seized under sub-section (1) and no show cause notice in respect thereof is given under section 180 within two months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the aforesaid period of two months may, for reasons to be recorded in writing, be extended by the Collector of Customs by a period not exceeding two months.

Provided further that the limitation prescribed under sub-section (2) shall not apply to goods specified under the first proviso to section.

(3) The appropriate officer may seize any documents or things which in his opinion will be useful as evidence in any proceeding under this Act.

(4) The person from whose custody any documents are seized under subsection (3) shall be entitled to make copies thereof or take extracts therefrom in the presence of an officer of customs.

.....“It has been proved in case No.40/2014 that those goods which were seized and given under superdari were not liable to be confiscated as smuggled goods, being in violation of Export and Import Restriction Act, 1950.”.....

.....“It is also not out of place to mention that the goods have been un-conditionally released by the Appellate Tribunal in Customs Appeal No.K-127/2015 on 16.12.2015.”.....

6. In view of the above, no case is made for interference in the impugned judgment by this Court, therefore, this Spl. Crl. Acq. Appeal is dismissed.

JUDGE

*SM*