Form No. J(2)

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Om Narayan Rai

MAT 96 of 2026
IA No: CAN 1 of 2026

M/s. Maurya Food Products
Vs.
Union of India and others

For the appellant	:	Mr. Pulkit Verma, Ms. Pooja Sah, Mr. AR Chowdhury
For the respondents	:	Mr. Ratan Banik, Mr. Bishwa Raj Agarwal
Heard on	:	26.11.2026
Judgment on	:	26.11.2026

Sabyasachi Bhattacharyya, J.:-

1. The present appeal arises out of a judgment whereby the appellant's writ petition was dismissed by the learned Single Judge by taking into account a second report authored by the National Food Laboratory, FSSAI, Kolkata, wherefrom it was found that the areca nuts (the commodity in dispute) are damaged by mould and insects.

2. Learned counsel for the appellant argues that the authority, while considering an application for provisional release filed by the

appellant under Section 110A of the Customs Act, 1962 (for short "the 1962 Act"), placed reliance on an earlier report which indicated that the goods are of Indonesian origin, by overlooking clause 2f of Circular No.30/2017-Cus dated July 18, 2017 which categorically provides a procedure for re-test. It is argued that as per the same, the competent authority is required to consider the results of the re-test, if held, without prejudice to the results of the first test and in case there is a variation in the results between the two, the competent authority shall take the decision relying upon either of the tests, specifying the grounds in writing for the decision so taken. In case the competent authority is unable to decide whether to rely upon the first or the re-test results, then it may order a second re-test, provided the consignment is still within the custom's control. However, this option should not be resorted to in every case of variation between the first test and re-test results as per the said provision.

3. In the present case, it is argued the competent authority neither undertook the exercise of specifying the grounds in writing as to why the first test was relied on, nor directed a second re-test, thereby violating the aforesaid provision.

4. Learned counsel for the appellant places reliance on the judgment of *Additional Director General (Adjudication) vs. ITS My Name Pvt. Ltd.*, reported at *2021 (375) E.L.T. 545 (Del)*, wherein a Division Bench of the Delhi High Court came to the conclusion that paragraph no.2 of Circular No.35/2017-Cus is contrary to Section 110A and is consequentially void and unenforceable at law.

5. It is argued that since the Circular dated July 18, 2017 relies on Circular No.35/2017-Cus, the said provision ought to be construed to be violative of Section 110A and, consequently, void.

6. Learned counsel next places reliance on a judgment of a learned Single Judge of the Kerala High Court in the matter of *Mohini Jewellers vs. Joint Commissioner, Customs Preventive Commissionerate*, reported at *(2023) 11 Centax 230 (Ker.)*, where it was held that the principles of natural justice apply in a proceeding under Section 110A of the 1962 Act.

7. Learned counsel appearing for the respondent authorities places reliance on a Notification bearing Notification No.43/2025-26 dated October 15, 2025 where it was stipulated that areca nut, coming within Code-08028090 therein, fell within the category of prohibited goods.

8. Learned counsel places reliance on the order of the competent authority, wherefrom it is evident that from the first report, it would be clear that the goods are of Indonesian origin. Even in the second report, it is argued, it was disclosed that the representative samples "mostly resembled" areca nuts/betel nuts of Indian origin. Thus, it is contended that even the second report does not categorically state that the goods-in-question are of Indian origin.

9. Learned counsel argues that the learned Single Judge was justified in dismissing the writ petition also on the ground that an equally efficacious alternative remedy was available to the appellant.

10. Upon hearing learned counsel for the parties, we find that even without going to the extent of holding the Circular-in-question to be void at this stage, it would be evident from the Circular itself that the competent authority was mandated by Clause 2f thereof, in the event it relied on the first test report, to specify the grounds in writing for such decision, in view of there being two competing reports, the first and the re-test.

11. Secondly, in the event the competent authority was unable to decide on which report to rely on, it was duty-bound to order a second re-test provided the consignment was still within the custom's control.

12. Such exercise having not been undertaken at all, the order of the competent authority impugned before the writ court was patently violative of the Circular issued by the concerned Department itself.

13. More importantly, we agree in principle with the judgment of the Kerala High Court in the matter of *Mohini Jewellers (supra)*, where it was held that the proceeding under Section 110A of the 1962 Act is quasi-judicial in nature and, as such, the principles of natural justice (including *audi alteram partem*) are applicable. In the present case, since no hearing was given to the appellant, the order of the competent authority is violative of such right as well, which brings the contravention within the domain of scrutiny by the writ court in judicial review.

14. It is well-settled that mere availability of an alternative remedy is not an absolute bar for the writ court to exercise its powers under Article

226 of the Constitution of India in the event there is any flagrant violation of law and/or principles of natural justice.

15. Even otherwise, Section 110A of the 1962 Act empowers the concerned authorities to provisionally release any goods to the owner on taking a bond from him in the proper form with such security and condition as the adjudicating authority may require, pending the order of the adjudicating authority.

16. Insofar as the FSSAI violations are concerned, the appellant is justified in contending that it is beyond the jurisdiction of the Customs authorities to detain or withhold goods on the ground of any such violation of the Food Safety and Standards Act, 2006 (for short "the 2006 Act"). In the event any such violation was to be addressed, it was for the concerned authorities under the 2006 Act to do so.

17. Even in the order of the competent authority, the violation of the 2006 Act is not a ground for coming to the conclusion that the appellant was not entitled to provisional release. The sole ground in the said order was that the goods were of Indonesian origin, for which the competent authority relied exclusively on the first report without undertaking the exercise as enumerated in Clause 2f of the Circular dated July 18, 2017.

18. In such view of the matter, in our opinion, the appropriate course of action would be to remand the matter to the competent authority for a fresh adjudication under Section 110A of the 1962 Act in compliance with the provisions of law and natural justice.

19. Accordingly, MAT 96 of 2026 is allowed, thereby setting aside the impugned judgment dated September 09, 2026 passed in WPA 1842 of 2026 and remanding the matter to the competent authority for a fresh adjudication on merits of the appellant's application under Section 110A of the 1962 Act upon giving a prior opportunity of hearing to the appellant and in strict adherence to the provisions stipulated in the Circular dated July 18, 2017 referred to above, in particular, Clause 2f thereof. The competent authority shall complete such exercise as expeditiously as possible, positively within December 20, 2026.

20. The authority shall consider release of the vehicle of the appellant in the meantime.

21. CAN 1 of 2026 is also disposed of consequentially.

22. There will be no order as to costs.

23. Urgent photostat certified copies of this judgment, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Om Narayan Rai, J.)

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