

03.09.26

WPA 16759 of 2026

**M/s. Vijay Trading Company
vs.
Union of India & Ors.**

Mr. Akshat Agarwal
Ms. Pooja Sah
Ms. Tanima Ghosh

...for the petitioner

Mr. Vipul Kundalia, Sr. Adv.
Ms. Aishwarya Rajyashree
Mr. Anindya Kanan
Ms. Anukriti Agarwal

...for the customs Authority

1. The respondent-authorities remain unrepresented in court today.
2. This matter has been transferred from the Circuit Bench at Jalpaiguri to the Principal Bench at Calcutta and has been renumbered as WPA 16759 of 2026.
3. From the last order dated 25.06.2026, it appears that Mr. Vipul Kundalia, learned senior counsel, has also appeared before the Circuit Bench at Jalpaiguri. For the convenience of this court, since the same set of counsels appeared before the Circuit Bench at Jalpaiguri and are well versed in the matter, let their appearances be regularized from the office of the concerned department.
4. The core issues involved herein is as to whether the petitioner is entitled to provisional release of

34,650 kgs of Assam Dried Areca Nuts, which were seized on 30.12.2025 and declared by FSSAI to be substandard and unsafe for human consumption, pending adjudication proceedings initiated and if so, on what terms.

5. It is submitted on behalf of the petitioner that an application dated 17.03.2026 seeking provisional release of the said goods was made which is pending.
6. The goods are perishable in nature and have been under seizure since 30.12.2025, causing grave prejudice to the petitioner.
7. The petitioner seeks provisional release upon furnishing an undertaking that the goods shall be used exclusively for industrial purposes and shall not be diverted for human consumption.
8. Reliance is placed on CBIC Circular dated 16th August, 2017 (AnnexureR-4) particularly para 2.1 and 2.2 which provides for provisional release of seized imported goods upon execution of a bond and furnishing of a bank guarantee/security deposit to cover differential duty, fine in lieu of confiscation under Section 125 of the Customs Act, 1962 and applicable penalties.
9. The learned senior counsel appearing for the respondent authorities vehemently opposes the prayer for provisional release and contends that:

- i. Adjudication proceedings in respect of the seized goods are pending.
 - ii. Provisional release at this stage would prejudice the interest of the revenue.
 - iii. The goods shall be provisionally released in terms of the conditions laid down in the circular dated 16th August, 2017 particularly as per para 2.1 and 2.2.
 - iv. If the goods are provisionally released in that event the same shall be sold in the presence of the concerned authorities.
10. Having heard the learned counsel for the parties and upon perusal of the records, this Court finds that the petitioner has been able to make out a prima facie case for interference at this stage. The perishable nature of the goods and the delay in adjudication are material consideration.
11. The circular dated 16.8.17 issued by the CBIC provides a settled mechanism for provisional release of seized goods subject to adequate safeguards which is extracted below:
- “2.1. Seized imported goods shall be released provisionally by the competent authority upon request of the owner of the seized goods, subject to executing a Bond for the full value/estimated value of the seized goods.*

2.2. Further, in addition to the Bond mentioned at Para 2.1. above, the competent authority shall take a Bank Guarantee or Security Deposit to cover the following:

- i. the entire amount of duty/differential duty leviable on the seized goods being provisionally released;*
- ii. amount of fine that may be levied in lieu of confiscation under Section 125 of the Customs Act, 1962 at the time of adjudication of the case. While securing the same, the competent authority shall take into account the nature of the seized goods, the duty and charges payable on the said goods, their market price and the estimated margin of profit;*
- iii. amount of penalties that may be levied under the Customs Act, 1962, as applicable, at the time of adjudication of the case.”*

12. Accordingly the concerned authority is directed to provisionally release the seized goods as per the following directions:

- i. The petitioner shall execute a Bond in terms of 2.1 of the Circular dated 16th August, 2017 and
- ii. The petitioner shall furnish a bank guarantee, to the satisfaction of the competent authority, in terms of para 2.2 of the said circular.

- iii. The petitioner shall furnish and undertaking that the seized goods shall be used exclusively for industrial purposes and not for human consumption.
- iv. The petitioner shall provide the details of the purchaser including identity proof as well as the time and venue where the seized goods are to be sold.
- v. Since adjudication proceedings have been pending since 17.03.2026 the adjudicating authority is peremptorily to complete the entire process of adjudication within a period of 8 weeks from date preferably on or before 31st October, 2026. The petitioner shall cooperate with authority and shall not seek any adjournment.

13. With the above observations and directions, the writ petition is also stands disposed of.

14. Since no affidavit has been called for, the allegations made in the petition are denied and deemed not to have been admitted.

(Smita Das De, J.)