

THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(SPECIAL STATUTORY JURISDICTION)

**CUSTOMS APPEAL NO. 125 OF 2020**

**IN THE MATTER OF:**

An appeal under section 196D of the Customs Act, 1969.

And

**IN THE MATTER OF:**

***Hakkani Motors Ltd.***

.... Appellant.

-Vs-

***Customs, Excise and VAT Appellate Tribunal and others.***

.... Respondents.

Mr. Munshi Moniruzzaman with Mr. Samarendra Nath Biswas, Mr. Yousuf Khan Rajib, Mr. Sakib Rezwana Kabir and Ms. Sabina Yasmin, Advocates

..... For the appellant.

Mr. Akhtar Farhad Zaman, Deputy Attorney General with Ms. Shadia Afrin Shapla, Deputy Attorney General with Mr. Arif Khan, Deputy Attorney General with Mr. Sovan Mahmud, Md. Md. Faridul Islam and Mr. Md. Nazmul Haque, Assistant Attorney Generals

..... For the Appellant-government.

**Heard on 05.05.2026, 12.05.2026**

**Judgment on 13.05.2026**

**Present:**

Mr. Justice S.M. Maniruzzaman  
and  
Mr. Justice Dihider Masum Kabir

**S.M. Maniruzzaman, J:**

The instant Customs Appeal is directed against the order dated 05.07.2020 passed by the Customs, Excise and VAT Appellate Tribunal,

Dhaka, respondent No. 1, communicated under Nathi No. CEVT/Case (Cus)-763/2016/1799 dated 07.07.2020, whereby the Tribunal dismissed the appeal and affirmed the order passed under Nathi No. ৪১৭৮/সেকশন-৫(এ) ১৩-১৪/আহ্ন/কাস রীট/৬৭/২০১৪/২৪০১কাস dated 11.08.2016 by respondent No. 3 on behalf of respondent No. 2, directing respondent No. 4 to encash Bank Guarantee No. ABBL/PCR/BG/02/2014 dated 26.02.2014 amounting to Tk. 19,53,217.11 furnished by the appellant, without making any final assessment of the appellant's imported goods covered under Bill of Entry No. C-18010 dated 11.12.2013.

Facts, relevant for disposal of the appeal, in short, are that the appellant is a private limited company incorporated under the Companies Act, 1994 and is engaged in the business of importation of specialized machinery used in transport and construction. In course of its business, the appellant opened a Letter of Credit being No. 0667130114817 dated 16.07.2013 for importation of used/reconditioned crane from Japan under H.S. Code No. 8426.12.00. After arrival of the goods at Customs House, Chattogram, the appellant's C & F Agent submitted Bill of Entry No. C-18010 dated 11.12.2013 for assessment and release of the same upon payment of applicable customs duties and taxes.

After submission of the Bill of Entry, the respondent customs authority conducted 100% physical examination of the goods on 15.12.2013 and 22.01.2014 and found discrepancies in the declared

classification. Consequently, the customs authority changed H.S. Code from 8426.12.00 to 8705.10.00 and withheld assessment of the goods. Thereafter, the appellant filed Writ Petition No. 1271 of 2014 before the High Court Division of the Supreme Court of Bangladesh. Accordingly, Rule was issued along with an interim order of directing to release the goods upon payment of applicable duties and taxes as per the declared H.S. Code and upon furnishing a bank guarantee for the differential amount between the declared H.S. Code and the H.S. Code fixed by the customs authority.

On 10.01.2016, the said writ petition was disposed of by the High Court Division with the following direction:

“We direct the respondent No. 1 to make final assessment of the goods and realize the customs duties, taxes and other charges, if any, in accordance with law upon considering the documents filed by the petitioner by encashing the bank guarantee furnished by the petitioner at the time of releasing the goods.”

Thereafter, respondent No. 2, Commissioner of Customs, Customs House, Chattogram, without complying with the said order by making final assessment, issued the order dated 11.08.2016 directing respondent No. 4 to encash the bank guarantee furnished by the appellant at the time of release of the goods.

Challenging the said order, the appellant preferred Customs Appeal No. CEVT/CASE(CUS)-763/2016 before the Customs, Excise and VAT

Appellate Tribunal, Dhaka. After hearing the parties, the Tribunal dismissed the appeal and thereby affirmed the order of respondent No. 2 by its order dated 07.07.2020.

Being aggrieved by and dissatisfied with the order of the Tribunal, the appellant preferred the instant customs appeal before this Court.

Ms. Sabina Yasmin, the learned Advocate appearing for the appellant, submits that it has been settled by our Apex Court that the law requires the customs authority to finalize the assessment within the stipulated period from the date of provisional assessment. In the instant case, the stipulated period ought to have been calculated from the date of the judgment and order passed by the High Court Division in Writ Petition No. 1271 of 2014 on 10.01.2016. However, without complying with the said provision, the customs authority failed to make final assessment and most illegally directed respondent No. 4 to encash the bank guarantee. Ms. Yasmin then submits that the Tribunal erred in law in affirming the order of respondent No. 2, which is illegal and liable to be set aside.

Ms. Yasmin further submits that the respondents failed to make final assessment of the goods in question in accordance with section 81(2) of the Customs Act, 1969, which is a mandatory provision of law. In this regards, Ms. Yasmin contends that this Court could have directed encashment of the bank guarantee only after final assessment of the goods was completed. However, in the instant case, the respondents, without making final

assessment, illegally directed respondent No. 4 to encash the bank guarantee furnished by the appellant. As such, the Tribunal erred in law in dismissing the appeal without proper findings.

Ms. Yasmin also submits that the goods were provisionally assessed on 23.04.2014 and this Court disposed of Writ Petition No. 1271 of 2014 on 10.01.2016 with specific directions. The impugned order was issued on 11.08.2016 in the mean time 137 working days had elapsed. Therefore, under section 81 of the Customs Act, 1969, the provisional assessment ought to have been treated as final and the bank guarantee returned to the appellant. According to her, the Tribunal failed to apply its judicial mind in directing encashment of the bank guarantee and thereby committed an error of law and fact.

On the other hand, Ms. Shadia Afrin Shapla, the learned Deputy Attorney General appearing for the respondent-Government, submits that pursuant to the National Board of Revenue's order dated 22.12.2013, the respondent customs authority finally assessed the goods under H.S. Code No. 8705.10.00 and accordingly issued the demand notice dated 11.08.2016 requesting the bank to encash the bank guarantee and issue payment in favour of the Government. In view of the above, learned Deputy Attorney General contends that there is no illegality in the impugned order dated 11.08.2016 or in the order passed by the Tribunal.

We have heard the learned Advocate appearing for the appellant and the learned Deputy Attorney General appearing for the respondent-Government, perused the impugned orders and relevant materials on record, and considered the relevant provisions of law.

The moot issue requiring determination in the instant appeal is whether the customs authority issued the impugned demand notice without making final assessment of the imported goods.

It, however appears from the record that the appellant imported a reconditioned crane from Japan declaring H.S. Code No. 8426.12.00 and subsequently released the goods pursuant to the order of the High Court Division passed in Writ Petition No. 1271 of 2014. It further appears that after release of the goods, the matter was forwarded to the National Board of Revenue for issuing ruling regarding proper H.S. Code for classification of the reconditioned crane. The National Board of Revenue, by its ruling dated 22.12.2013, made the following observations:

“ইতিপূর্বে এ জাতীয় পণ্যের এইচ এস কোড নির্ধারণের ক্ষেত্রে জটিলতার উভব হওয়ায় জাতীয় রাজস্ব বোর্ডের সদয় দিক নির্দেশনা কামনা করা হলে জাতীয় রাজস্ব বোর্ডে অনুষ্ঠিত সভায় বিষয়টি পর্যালোচনা করা হয়। পর্যালোচনান্তে জাতীয় রাজস্ব বোর্ড এর পত্র নথি নং-১(২) শঃ নীঃ ও বাঃ/২০০৫/৩৬৯, তারিখ ২২/১২/২০১৩এর মাধ্যমে এ জাতীয় ক্রেনকে এইচ এস কোড 705.10.00এর অধীনে শ্রেণীবিন্যাসপূর্বক শুক্কায়নের নিমিত্ত নিম্নোক্ত নির্দেশনা প্রদান করা হয়,(ক) এ জাতীয় Crane Mounted Lorry কে Special Purpose Vehicle হিসাবে এইচ

এস কোড ৮৭০৫,১০,০০ তে শ্রেণীবিন্যাসপূর্বক এতদসংশ্লিষ্ট সাময়িক শুদ্ধায়নকৃত চালানসমূহ চূড়ান্ত শুদ্ধায়ন করতে হবে।”

Pursuant to the said ruling, respondent No. 2 finally assessed the appellant's goods under H.S. Code No. 8705.10.00 instead of H.S. Code No. 8426.12.00 and issued the impugned letter dated 11.08.2016. In the said impugned order, the Commissioner of Customs, respondent No. 2 categorically stated as follows:

“পরপরীতে মাননীয় হাইকোর্টের চূড়ান্ত আদেশ অনুযায়ী প্রস্তাবিত এইচ এস কোড পণ্য চালানটি চূড়ান্ত শুদ্ধায়ন করা হয়েছে ফলে ব্যাংক গ্যারান্টিতে উল্লিখিত টাকা ১৯,৫৩,২১৭.১১ (উনিশ লক্ষ তেপান্ন হাজার দুইশত সতের দশমিক এক এক) মাত্র সরকারের অনুকূলে নগদায়নযোগ্য হয়েছে।”

In view of the above, we are of the opinion that the customs authority issued the impugned notice after completing final assessment of the imported goods. Therefore, the submission of the learned Advocate for the appellant that the demand notice was issued without completing final assessment, as directed by the High Court Division, is not acceptable.

In view of the above discussions, we do not find any error of law in the impugned order passed by the Tribunal. Accordingly, we find no merit in the appeal.

In the result, the appeal is dismissed.

There will be no order as to cost.

The order of stay granted earlier is vacated.

Send down the lower Court's records at once.

Communicate the judgment and order to the concerned respondents forthwith.

*Dihider Masum Kabir, J:*

I agree.

**Md. Mashud Sikder.**