IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)

Writ Petition No. 5991 of 2002

In the matter of:
An application under article 102 of the Constitution of the People's Republic of Bangladesh.

AND
In the matter of:

Md. Abdul Khaleque

... Petitioner

-Versus-

The Joint Commissioner of Customs, ICD, Kamalapur, Dhaka and others

... Respondents

No one appears for the petitioner.

Mr. Tanim Khan, D.A.G. and
Mr. Dewan Humaun Kabir(Ripon), D.A.G with
Ms. Fatema Yesmin, A.A.G.
Mr. Mehedi Hasan Ronve, A.A.G.
Ms. Elina Chowdhury, A.A.G.
Mr. Sk. Naser Wahed (Shemon), A.A.G. and
Ms. Fahriya Ferdous, A.A.G.

... For the respondents

Judgment dated: 16.11.2026

Present:

Justice Sardar Md. Rashed Jahangir
and
Justice Dihider Masum Kabir

Sardar Md. Rashed Jahangir, J:

Since neither the petitioner nor his engaged Advocate took any initiative to pursue his cause and as such, Hon'ble Chief Justice of Bangladesh sent this matter before this Division Bench to dispose of expeditiously.

The matter has been appearing in the list for a couple of days with the name of learned Advocate, but no one appears and as such, on perusal of the record the matter has been taken up for delivery of judgment.

On an application under article 102 of the Constitution of the People's Republic of Bangladesh, the Rule Nisi was issued on 11.11.2002 as follows:

> "Let a Rule Nisi issue calling upon the Respondents to show cause as to why the impugned order as contained in office memo bearing Nathi No.5-Cus (148)/Am:ICD/Group-2/ Non PSI/2002/7507 dated 17.10.2002 issued by Assistant Commissioner on behalf of the Joint Commissioner i.e. the Respondent No.1 imposing additional duty taxes for a total sum of Tk.64,899.77 (Sixty four thousand eight hundred ninety nine and paisa seventy seven only) upon the petitioner for imported split type Air conditioner vide L/C No.066402010146 dated 15-6-2002 covered by Bill of Entry No. C-11660 dated 18-8-2002 pursuant to which office of the Respondent No.1 sought to impose additional duty of Tk.64,866.77 upon petitioners should not be declared to have been made without lawful authority and of no legal effect and/or such other or further order or orders passed as this Court may seem fit and proper."

On perusal of the record it appears that the Annexure-'F' is a demand notice issued vide Nathi No.5-Cus(148)/Am:ICD/Group-2/ Non PSI/2002/7507 dated 17.10.2002 pursuant to a final determination of demand, but the petitioner without taking resort of the statutory appeal filed this writ petition and obtained the Rule Nisi together with the order of stay.

Under section 193 of the Customs Act, 1969, it is provided that if any person is aggrieved by any decision or order passed under this Act by an Officer of Customs lower in rank than a Commissioner of Customs, may appeal to the Commissioner(Appeal) within 3(three) months from the date of communication to him of such decision or order.

Under article 102(2) of the Constitution of the People's Republic of Bangladesh, it is provided that the High Court Division if satisfied that no other equally efficacious remedy is provided by law or is available for any aggrieved person, then it may make an order on an application under article 102 of the Constitution.

In the instant case, since there is statutory forum of preferring appeal, thus, the writ petition is barred by clause (2) of article 102 of the People's Republic of Bangladesh.

In view of the above, we find no merit in the Rule.

Accordingly the Rule Nisi is discharged.

No order as to cost.

The order of stay granted at the time of issuance of the Rule is hereby recalled.

Dihider Masum Kabir, J:

I agree.