

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

WRIT PETITION NO.8456 of 2022

IN THE MATTER OF:

An application under Article 102 of the
Constitution of the People's Republic of
Bangladesh

And

IN THE MATTER OF:

*Perfetti Van Melle Bangladesh Pvt. Ltd, a
private Limited represented by its Managing
Director.*

... Petitioner

-vs-

*Commissioner of Customs, Customs House, P.
S. Bandar, Chattogram and others.
... Respondents.*

And

Mr. Kazi Ershadul Alam, Advocate

.... For the Petitioner.

Mr. Samarendra Nath Biswas, D.A.G. with

Mr. Md. Abul Kalam Khan (Daud), A.A.G. with

Mr. Md. Modersher Ali Khan (Dipu), A.A.G. with

....For the Respondents-government.

Heard and judgment on:16.01.2024

Present:

Mrs. Justice Farah Mahbub.

And

Mr. Justice Muhammad Mahbub Ul Islam

Farah Mahbub, J:

In this Rule Nisi, issued under Article 102 of the Constitution of the People's Republic of Bangladesh, the respondents have been called upon to show cause as to why the impugned order dated 29.06.2022 passed under Nothi No.১৯৪৬/এপি/সেকশন-৭(বি)/২০২০-২০২১

/৬০৮৩৬ (কাস) (Annexure-A) issued by the respondent No.2 on behalf of respondent No.1 directing the proforma respondent No.4, Citi Bank Ltd. N.A. to encash the bank guarantee bearing No.5631607357 dated 28.11.2021 covering an amount of Tk.13,97,920.96 furnished by the petitioner as security for releasing the goods in question under B/E No.C-1704911 dated 24.10.2021, should not be declared to have been issued without lawful authority and hence, of no legal effect.

At the time of issuance of the Rule the operation of the impugned order dated 29.06.2022 bearing Nothi No.১৯৪৬/এপি/সেকশন-৭(বি)/২০২০-২০২১/ ৬০৮৩৬ (কাস) (Annexure-A) was stayed by this Court till 28.09.2022 subject to filing appeal under Section 196A of the Customs Act, 1969.

In view of the statements so made in the writ petition, Mr. Kazi Ershadul Alam, the learned Advocate appearing for the petitioner by filing supplementary affidavit submits that in compliance of the order passed by this Hon'ble Court, the petitioner has filed an appeal before the Tribunal concerned under Section 196A of the Customs Act, 1969 on 20.07.2022 bearing No.Cus-402/2022. Meanwhile, said appeal has been disposed of vide judgment and order dated 02.02.2023. Accordingly, he submits that in view of disposal of the said appeal, there remains no cause of action requiring adjudication in the instant Rule; hence he prays for passing necessary order.

The instant Rule is centering around the issue of passing order by the respondent No.2 on behalf of the respondent No.1 directing the

proforma respondent No.4 City Bank Ltd. N.A. to encash the respective bank guarantee earlier furnished by the petitioner in connection with B/E No.C-1704911 dated 24.10.2021. Pending hearing of the Rule, the petitioner has preferred an appeal before the Tribunal concerned under Section 196A of the Customs Act, 1969 in compliance of the direction given earlier by this Court at the time of issuance of the instant Rule. However, with the disposal of the said appeal there remains no cause of action requiring adjudication in the instant Rule.

In view of the above, this Rule is accordingly disposed of.

There will be no order as to costs.

Communicate the judgment and order to the respondents concerned at once.

Muhammad Mahbub Ul IslamJ:

I agree.