

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

**Writ Petition No. 5773 of 2006**

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. Kabir Uddin Bhuiyan

... Petitioner

-Versus-

Commissioner of Customs, Customs House,  
Chattogram and others

... Respondents

No one appears

... For the petitioner

Mr. Nawroz Md. Rasel Chowdhury, DAG with  
Ms. Tahmina Polly and  
Mr. Prince-Al-Masud, AAGs

... For the respondents

**Heard on: 11.03.2024, 12.03.2024, 13.03.2024**

**and**

**Judgment on: 18.03.2024**

Present:

Justice Md. Shahinur Islam

and

Justice Sardar Md. Rashed Jahangir

Sardar Md. Rashed Jahangir, J:

The matter is appearing in the cause list for couple of days, with  
the name of learned Advocate for the petitioner, but neither the petitioner  
nor his engaged lawyer appeared before this Court to defend the Rule Nisi

and since it is an old matter of the year, 2006; thus, it is taken for hearing and disposal in absence of the petitioner.

Rule Nisi was issued on an application under article 102 of the Constitution of the People's Republic of Bangladesh calling upon the respondents to show cause as to why the failure to comply with the mandatory provisions under Rule 13(2) and 13(3) of the PSI Rule, 2002 in issuing CRF No. CN06014157 dated 04.06.2006 and imposing of higher price by ignoring the proper/actual/transaction price of the goods under Letter of Credit No. 101406010214 dated 06.04.2006 and assessment under Bill of Entry No. C-207925 dated 21.06.2006 at the said higher price should not be declared to have been made without lawful authority and is of no legal effect and as to why the respondents should not be directed to assess and release the imported goods on the basis of transaction value/normal value as contemplated in section 25(1) and (2) of the Customs Act, 1969 and/or such other or further order or orders passed as to this Court may seem fit and proper.

At the time of issuance of the Rule Nisi, respondent Nos. 2 and 3 were directed to release the imported goods covered under Letter of Credit No. 101406010214 dated 06.04.2006 and Bill of Entry No. C-207925 dated 21.06.2006 to the petitioner on payment of duties and taxes on the basis of invoice value and for the difference between the invoice value and the CRF value 50% shall be paid in cash and on furnishing bank guarantee for the rest within 5(five) days from the date of receipt of this order.

Facts leading to issuance of the Rule Nisi are that the petitioner is engaged in proprietary business in the name and style of 'Global Trading Corporation', dealing with importation and trading of imported goods in Bangladesh. In course of business petitioner opened a Letter of Credit being No.101406010214 dated 06.04.2006 through United Commercial Bank Limited, Kadamtali Branch, Chittagong, Bangladesh for importation of 'Drinking Glass Ware'. It is to be mentioned here that the goods in question was imported under the mandatory 'Pre-Shipment Inspection' scheme. After arrival of the goods at Chittagang port, petitioner through

his C&F agent submitted Bill of Entry No. C-207925 dated 21.06.2006 for releasing the same; it is also stated that at the relevant time, petitioner also received a copy of CRF certificate being No. CN06014157 dated 04.06.2006 through the L/C issuing bank and became astonished to see that the CRF certified value, which is much higher than the actual invoice or transaction value.

It is further stated that the customs authority of Chittagang port attempted to assess the goods at the said higher value ignoring the actual transaction value and on being aggrieved by issuance of the CRF certificate issued by the concern PSI agency petitioner filed this writ petition and obtained the Rule Nisi along with an interim direction as stated above.

The contention of the writ petition is that the PSI agent issued the CRF certificate violating mandatory provisions of the PSI Rules, 2002 certifying an inflated value/price without following the provisions thereof, in particular, Rule 13 of the Rules, 2002. It is further submitted that the respondents without assigning any reason disbelieved the transaction

value or the price actually paid to the seller and thereby proposing a very higher price in violation of the PSI Rules, 2002.

On the other hand, Mr. Nawroz Md. Rasel Chowdhury, learned Deputy Attorney General appearing for the respondents submits that the consignment in question were assessed and released provisionally under the interim direction dated 05.07.2006 of this Court and the final assessment of the consignment in question is yet to be completed; thus, the Rule Nisi as has been issued upon the instant writ petition, and the grounds taken thereof are misconceived and not enable in law; because, the final assessment is not taken place, meaning thereby the CRF certificate in question is yet to be adjudged, either accepting or refusing the contents of certification thereof in view of the provisions of the PSI Rules, which provides the Customs officials a legal authority to accept or deny the CRF certificate as a whole or part thereof. Thus, in appropriate case and the grievance of the petitioner, if any, may arise after the goods having been finally assessed and in view of above, the writ petition is a premature one.

Heard learned Deputy Attorney General, perused the writ petition and its grounds together with the annexures.

It is definite case of the Commissioner-respondent that before the imported consignment could be assessed finally the petitioner moved this Court on the allegation that the CRF certificate has been issued violating the provisions of PSI Rules and also having an apprehension that the final assessment may be made on the basis of the said CRF certificate. It appears that the Customs Act, 1969 and the Rules made thereunder prescribed a detail procedure for assessment within a prescribed manner and time. Before expiry of such limitation or completion of the assessment, no importer could have any grievance against such assessment and under the case in hand, the petitioner through his writ petition failed to show any assessment, meaning thereby, the consignment in question was awaiting to be assessed finally to duty and the only grievance of the petitioner is that the impugned CRF certificate should not be used against it in assessing him to duty. In numerous cases, this Division consistently held that this Court is not generally empowered to

intervene into the process of assessment to duty or interfere into the authority of assessing officer in the process of making statutory duties.

In the case of Abul Khair Condensed Milk and Beverage Limited Vs. The Commissioner of Customs and others reported in 27BLD(HD)555, it has been held that:

*“Now, the grievance against the CRF certificates on the premise of assessment appears to be of no foundation. When the goods were not at all assessed to duty, all submissions against such certificates appear to be premature. It is for the customs authority first to consider and decide on the certification of the goods as to whether the CRF certificate was correct and in order with regard to quality, quantity, price, description and customs classification of the imported goods and provides the basis for assessment, and could act and assess the duty thereon. This Division is not empowered to pre-empt the power of the customs authority in respect of such certification and decide on such CRF certificate before assessment.”*

In the premise above, since the goods were assessed provisionally and released pursuant to an interim direction of this Court, which now needs to be finalized and this Court is of the view that the respondents should be directed to make the assessment final after notifying the petitioner and taking into consideration the documents and papers, if any,

produced by the petitioner in the light of the Pre-shipment Inspection Rules, 2002, the Valuation Rules, 2000 and provisions of the Customs Act, 1969.

Accordingly, the respondents are directed to assess the goods within 90(ninety) days from the date of receipt of this order in accordance with the above observation.

With the above observation and direction Rule is disposed of.

No order as to cost.

Communicate this order at once.

**Md. Shahinur Islam, J:**

I agree.