

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

Writ Petition No. 5637 of 2006

with

Writ Petition No. 5638 of 2006

with

Writ Petition No. 5639 of 2006

with

Writ Petition No. 5641 of 2006

with

Writ Petition No. 5645 of 2006

with

Writ Petition No. 5646 of 2006

with

Writ Petition No. 5647 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:

M/s. City Sugar Industries Limited and another

...Petitioners of all writ petitions

-Versus-

Government of the People's Republic of Bangladesh
represented by the Secretary, Internal Resources
Division, Ministry of Finance, Bangladesh Secretariat
and others

... Respondents of all writ petitions

Mr. Hasan Rajib Prodhan, Advocate

... For the petitioners of all writ petitions

Mr. Nawroz Md. Rasel Chowdhury, DAG with

Mr. Md. Azizul Hoque,

Ms. Tahmina Polly and

Mr. Prince-Al-Masud, AAGs

... For respondents of all writ petitions

Heard on: 07.05.2024 and

Judgment on: 08.05.2024

Present

Mr. Justice Zafar Ahmed

And

Mr. Justice Sardar Md. Rashed Jahangir

Zafar Ahmed, J.

Since the parties are same in all of the writ petitions and the Rules involve adjudication of common question of facts and law, those are heard together and disposed of by this common judgment.

In **Writ Petition (WP) No. 5637 of 2006**, Rule Nisi was issued on 22.06.2006 calling upon the respondents to show cause as to why the assessment (Annexure-E-1) of the petitioners' imported crude/raw sugar used as intermediary raw materials for sugar refining industry covered under Letter of Credit No. DPCDAK 603449 dated 17.05.2006 and Bill of Entry No. C-202764 dated 17.06.2006 charging/imposing Tk.5000/- per M.T. as specific customs duty as fixed for refined white sugar (finished goods) under H.S. Code No. 1701.11.00 should not be declared to be without lawful authority and is of no legal effect and as to why they should not be directed to make assessment and release the consignment imposing/charging 0% customs duty and/or pass 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, this Court passed an interim order directing the respondents to release the imported goods covered under Letter of Credit No. DPCDAK 603449 dated 17.05.2006 and Bill of Entry No. C-202764 dated 17.06.2006 on payment of 30% of the demanded customs duties, taxes and other charges, if any, in cash and on furnishing

bank guarantee for the balance 70% of the customs duties, taxes and other charges within 3(three) days from the date of receipt of this order.

In **WP No. 5638 of 2006**, Rule Nisi was issued on 22.06.2006 calling upon the respondents to show cause as to why the assessment (Annexure-E-1) of the petitioners' imported crude/raw sugar used as intermediary raw materials for sugar refining industry covered under Letter of Credit No. 020106010148 dated 24.05.2006 and Bill of Entry No. C-204837 dated 19.06.2006 charging/imposing Tk.5000/- per M.T. as specific customs duty as fixed for refined white sugar (finished goods) under H.S. Code No. 1701.11.00 should not be declared to be without lawful authority and is of no legal effect and as to why they should not be directed to make assessment and release the consignment imposing/charging 0% customs duty and/or pass 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, this Court passed an interim order directing the respondents to release the imported goods covered under Letter of Credit No. 020106010148 dated 24.05.2006 and Bill of Entry No. C-204837 dated 19.06.2006 on payment of 30% of the demanded customs duties, taxes and other charges, if any, in cash and on furnishing bank guarantee for the balance 70% of the customs duties, taxes and other charges within 3(three) days from the date of receipt of this order.

In **WP No. 5639 of 2006**, Rule Nisi was issued on 22.06.2006 calling upon the respondents to show cause as to why the assessment (Annexure-E-1) of the petitioners' imported crude/raw sugar used as intermediary raw materials for sugar refining industry covered under Letter of Credit No. 080706010086 dated 18.05.2006 and Bill of Entry No. C-202836 dated 17.06.2006 charging/imposing Tk.5000/- per M.T. as specific customs duty as fixed for refined white sugar (finished goods) under H.S. Code No. 1701.11.00 should not be declared to be without lawful authority and is of no legal effect and as to why they should not be directed to make assessment and release the consignment imposing/charging 0% customs duty and/or pass 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, this Court passed an interim order directing the respondents to release the imported goods covered under Letter of Credit No. 080706010086 dated 18.05.2006 and Bill of Entry No. C-202836 dated 17.06.2006 on payment of 30% of the demanded customs duties, taxes and other charges, if any, in cash and on furnishing bank guarantee for the balance 70% of the customs duties, taxes and other charges within 3(three) days from the date of receipt of this order.

In **WP No. 5641 of 2006**, Rule Nisi was issued on 22.06.2006 calling upon the respondents to show cause as to why the assessment

(Annexure-E-1) of the petitioners' imported crude/raw sugar used as intermediary raw materials for sugar refining industry covered under Letter of Credit No. DPCDAK 603445 dated 17.05.2006 and Bill of Entry No. C-202816 dated 17.06.2006 charging/imposing Tk.5000/- per M.T. as specific customs duty as fixed for refined white sugar (finished goods) under H.S. Code No. 1701.11.00 should not be declared to be without lawful authority and is of no legal effect and as to why they should not be directed to make assessment and release the consignment imposing/charging 0% customs duty and/or pass 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, this Court passed an interim order directing the respondents to release the imported goods covered under Letter of Credit No. DPCDAK 603445 dated 17.05.2006 and Bill of Entry No. C-202816 dated 17.06.2006 on payment of 30% of the demanded customs duties, taxes and other charges, if any, in cash and on furnishing bank guarantee for the balance 70% of the customs duties, taxes and other charges within 3(three) days from the date of receipt of this order.

In **WP No. 5645 of 2006**, Rule Nisi was issued on 22.06.2006 calling upon the respondents to show cause as to why the assessment (Annexure-E-1) of the petitioners' imported crude/raw sugar used as intermediary raw materials for sugar refining industry covered under Letter

of Credit No. 308506010162 dated 23.05.2006 and Bill of Entry No. C-202801 dated 17.06.2006 charging/imposing Tk.5000/- per M.T. as specific customs duty as fixed for refined white sugar (finished goods) under H.S. Code No. 1701.11.00 should not be declared to be without lawful authority and is of no legal effect and as to why they should not be directed to make assessment and release the consignment imposing/charging 0% customs duty and/or pass 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, this Court passed an interim order directing the respondents to release the imported goods covered under Letter of Credit No. 308506010162 dated 23.05.2006 and Bill of Entry No. C-202801 dated 17.06.2006 on payment of 30% of the demanded customs duties, taxes and other charges, if any, in cash and on furnishing bank guarantee for the balance 70% of the customs duties, taxes and other charges within 3(three) days from the date of receipt of this order.

In **WP No. 5646 of 2006**, Rule Nisi was issued on 22.06.2006 calling upon the respondents to show cause as to why the assessment (Annexure-E-1) of the petitioners' imported crude/raw sugar used as intermediary raw materials for sugar refining industry covered under Letter of Credit No. DPCDAK 603452 dated 17.05.2006 and Bill of Entry No. C-202750 dated 17.06.2006 charging/imposing Tk.5000/- per M.T. as specific

customs duty as fixed for refined white sugar (finished goods) under H.S. Code No. 1701.11.00 should not be declared to be without lawful authority and is of no legal effect and as to why they should not be directed to make assessment and release the consignment imposing/charging 0% customs duty and/or pass 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, this Court passed an interim order directing the respondents to release the imported goods covered under Letter of Credit No. DPCDAK 603452 dated 17.05.2006 and Bill of Entry No. C-202750 dated 17.06.2006 on payment of 30% of the demanded customs duties, taxes and other charges, if any, in cash and on furnishing bank guarantee for the balance 70% of the customs duties, taxes and other charges within 3(three) days from the date of receipt of this order.

In **WP No. 5647 of 2006**, Rule Nisi was issued on 22.06.2006 calling upon the respondents to show cause as to why the assessment (Annexure-E-1) of the petitioners' imported crude/raw sugar used as intermediary raw materials for sugar refining industry covered under Letter of Credit No. DPCDAK 603448 dated 17.05.2006 and Bill of Entry No. C-202781 dated 17.06.2006 charging/imposing Tk.5000/- per M.T. as specific customs duty as fixed for refined white sugar (finished goods) under H.S. Code No. 1701.11.00 should not be declared to be without lawful authority

and is of no legal effect and as to why they should not be directed to make assessment and release the consignment imposing/charging 0% customs duty and/or pass 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, this Court passed an interim order directing the respondents to release the imported goods covered under Letter of Credit No. DPCDAK 603448 dated 17.05.2006 and Bill of Entry No. C-202781 dated 17.06.2006 on payment of 30% of the demanded customs duties, taxes and other charges, if any, in cash and on furnishing bank guarantee for the balance 70% of the customs duties, taxes and other charges within 3(three) days from the date of receipt of this order.

For an effective disposal of all the Rules, we see no necessity to deal with the facts of the cases in detail.

Learned Deputy Attorney General, Mr. Nawroz Md. Rasel Chowdhury appraised that being aggrieved by the interim orders dated 22.06.2006 the respondents moved before the Appellate Division by filing 8(eight) Miscellaneous Petitions being Nos. 654-661 of 2006 (arising out of 8(eight) writ petitions, in which similar interim orders were passed) and the Hon'ble Appellate Division on 29.06.2006 modified the interim orders

dated 22.06.2006 passed by the High Court Division in the following manner:

“This is an application for modification of the impugned order dated 22.06.2006 passed by the High Court Division.

Heard the learned Counsel of both the parties at length and perused the application. In view of the submissions made and for the reasons stated the impugned order passed by the High Court Division is modified to the effect that the leave petitioners are directed to release the consignments in question in favour of the writ petitioner-respondents forthwith on payment of duty at the rate of Tk.2250/- per Metric Ton as fixed by the Finance Bill, 2006.”

Accordingly, under the aforesaid direction, the goods in question covered under the respective bills of entry were assessed provisionally and were released in favour of the petitioners of all writ petitions.

Learned Deputy Attorney General submits that the imported goods were released on the basis of a provisional assessment and the final assessment is yet to be completed following disposal of all the Rules.

Since the consignment in question has not been assessed finally, the same is required to be completed by the respondents in due course.

Accordingly, we are of the view that the justice would be best served if we direct the respondents to complete the final assessment within a given time frame.

Therefore, all the writ petitions are disposed of and the respondent Nos. 2-4 are hereby directed to assess the consignment in question finally in accordance with the Customs Act, 1969 and the Rules made thereunder within 90(ninety) days from date of receipt of this order, after notifying the petitioner and taking into consideration of the documents, if any, produced by the petitioners following the provisions of law strictly.

No order as to cost.

Communicate the judgment and order at once.

Sardar Md. Rashed Jahangir, J.

I agree.