

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

Writ Petition No. 5640 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

-Versus-

Government of the People's Republic of Bangladesh
and others

... Respondents

No one appears

... For the petitioners

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

... For respondents

Heard on: 11.03.2024 and

Judgment on: 12.03.2024

Present

Mr. Justice Md. Shahinur Islam

And

Mr. Justice Sardar Md. Rashed Jahangir

Sardar Md. Rashed Jahangir, J:

The Rule 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 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. DCDAK 603444 dated 17.05.2006 and Bill of Entry No. C-202828 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 shall not be declared to be without lawful authority and is of no legal effect and why they shall not be directed to make assessment and release the petitioner's 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 on 22.06.2006 under an interim order of this Court, the respondents are directed to release the imported goods covered under Letter of Credit No. DCDAK 603444 dated 17.05.2006 and Bill of Entry No. C-202828 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 the Rule, we see no necessity to deal with the facts of the case-in-hand in detail.

Learned Deputy Attorney General, Mr. Nawroz Md. Rasel Chowdhury appraised this Court that on being aggrieved by the interim order dated 22.06.2006 the respondents moved before the Appellate Division by filing as well as 8(eight) Miscellaneous Petitions being Nos. 654-661 of 2006 {arising out of 8(eight) writ petitions, in which similar interim orders were passed, one of those is the present writ petition} and the Honorable Appellate Division on 29.06.2006 after hearing being pleased 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 bill of entry no. 202828 dated 17.06.2006 was assessed provisionally and thereby released in favour of the petitioner.

Learned Deputy Attorney General submits that the imported crude/raw sugar was released on the basis of a provisional assessment and the final assessment is yet to be completed following disposal of the Rule.

Since the consignment in question has not been assessed finally, thus, it is required to complete the same 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, the writ petition is 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 petitioner following the provisions of law strictly.

No order as to cost

Communicate the judgment and order at once.

Md. Shahinur Islam, J:

I agree.