

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

WRIT PETITION NO. 16417 OF 2024

IN THE MATTER OF:

An application under Article 102(2)(ii) of the Constitution of the People's Republic of Bangladesh.

And

IN THE MATTER OF:

M/S Zeil Wears Limited

.... Petitioner

-Vs-

Chairman, National Board of Revenue and others.

....Respondents.

Mr. Md. Abul Kalam Khan(Daud) with
Mr. Shams-ud-Doha Talukder, Advocates
...for the petitioner

Mr. Akhtar Farhad Zaman, Deputy Attorney General with Ms. Shadia Afrin Shapla, Deputy Attorney General with Mr. Arif Khan, Deputy Attorney General with Mr. Sovan Mahmud, Md. Md. Faridul Islam and Mr. Md. Nazmul Haque, Assistant Attorney Generals

.... For the respondent-government.

Heard on 26.04.2026

Judgment on 10.05.2026.

Present:

Mr. Justice S.M. Maniruzzaman
and
Mr. Justice Dihider Masum Kabir

S.M. Maniruzzaman, J:

This Rule was issued on 31.12. 24 in the following terms;

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the Memo under Nathi

No.08.01.0000.56.07.031.2023.206 dated 21.05.2024 issued by the Second Secretary (Customs, Export and Bond), National Board of Revenue-respondent No. 02 not re-considering the application for correction of the mathematical error by making re-measurement of the goods imported by the petitioner under bonded Warehouse License under Section 206 of the Customs Act,1969 determined as per Bond register and unlocking the Business Identification Number (BIN) of the petitioner company (Annexure-N) should not be declared to have been issued without lawful authority and of no legal effect and also as to why the respondent No. 03 should not be directed to make re measurement of the goods imported by the petitioner under the Bonded Warehouse License under Section 206 of the Customs Act, 1969 determined as per Bond register and to re-consider the Adjudication Order Nos. 81 of 2019 dated 03.12.2019, 18 of 2022 dated 28.02.2022, 35 of 2021 dated 09.03.2022 and 70(ka) of 2022 dated 30.05.2022(Annexure-D, E, F and G) and as to why respondent No. 03 should not further be directed to unlock the Business Identification Number (BIN) of the petitioner as per Office Order under Nathi No. ২য় (২) ইটি/ কাবক /অফিস আদেশ/৬৬/২০০১(অংশ-২) dated 23.01.2024

issued by the respondent No. 3 and/or pass such other or further order or orders as to this Court may seem fit and proper.”

At the time of issuance of the Rule interim order was passed in the following terms;

“Pending disposal of the Rule, the respondent No. 3 is directed to make a re-measurement of the goods imported by the petitioner under the Bonded Warehouse License under Section 206 of the Customs Act, 1969 as per subject ‘ক’ of the application dated 28.01.2024(Annexure-J).”

Challenging the impugned order of direction, the respondent - Government preferred Civil Petition for Leave to Appeal No. 684 of 2025 before the Appellate Division, Supreme Court of Bangladesh. After hearing the said Leave Petition, the Hon’ble Judge-in-Chamber interfering the interim order directed the High Court Division to hear and dispose of the Rule within 02(two) months from date of receipt of the order.

The main contention of the petitioner in the instant case is that after passing the adjudication order bearing Nos. 81 of 2019 dated 02.12.2019, 18 of 2022 dated 28.02.2022, 35 of 2022 dated 09.03.2022, 70(ka) of 2022 dated 30.05.2022 the concerned Commissioner of Customs Bond, Commissionarate re-audited the dispute through an audit team and the said team submitted a report on 25.08.2025 (Annexure-T to the application for direction) with the following comments;

“বর্ধিতাবস্থায়, এ দপ্তর কর্তৃক জারীকৃত বিচারাদেশ নং ৮১/২০১৯, তারিখ ০৩/১২/২০১৯খ্রি. এ উল্লিখিত ৮,২০,৯০৫.৭৪ কেজি পণ্য/ কাঁচামাল এর উপর প্রযোজ্য শুল্ক-করাদি ১২,৬৯,৬৫,১৯০.০০(বার কোটি উনসত্তর লক্ষ পয়ষট্টি হাজার একশত নব্বই) টাকা এর পরিবর্তে প্রতিষ্ঠানের দলিলাদি ও এ দপ্তরে রক্ষিত বন্ড রেজিস্টার যাচাই করে হিসাবকৃত ৪১,৭৫৭.৭৯ কেজি পণ্যের উপর প্রযোজ্য শুল্ক-করাদি বাবদ ১,২৯,০৭,৫৫৯.১৮(এক কোটি উনত্রিশ লক্ষ সাত হাজার পাঁচশত উনষাট দশমিক এক আট) টাকা পুনঃ নির্ধারণ করা যেতে পারে।”

In this regard, Mr. Shams-ud-Doha Talukder, the learned Advocate appearing for the petitioner submits that considering the said report the concerned adjudication authority is legally bound to re-hear the proceeding for passing a fresh adjudication order.

On the other hand, Mr. Akhtar Farhad Zaman, the learned Deputy Attorney General appearing for the respondent-Government submits that since the adjudication order bearing Nos. 81 of 2019 dated 02.12.2019, 18 of 2022 dated 28.02.2022, 35 of 2022 dated 09.03.2022, 70(ka) of 2022 dated 30.05.2022 are still in force and the petitioner without challenging the said orders by preferring appeal before the Tribunal filed the instant writ petition which is not maintainable. Learned Deputy Attorney General next submits that the adjudication authority is *functus-officio* and therefore cannot re-consideration the audit report dated 25.08.2025 at this stage. In this regard the learned Deputy Attorney General further submits that the Customs, Excise and VAT Appellate Tribunal is only the proper authority to consider the said report at the time of hearing of the appeal if the petitioner files appeal against the adjudication orders.

In the midst of the hearing the learned Advocate for the petitioner submits that he has received clear instruction from his client that his client is willing to prefer appeal before the Customs, Excise and VAT Appellate Tribunal challenging the adjudication order bearing Nos. 81 of 2019 dated 02.12.2019, 18 of 2022 dated 28.02.2022, 35 of 2022 dated 09.03.2022, 70(ka) of 2022 dated 30.05.2022, if the Hon'ble Court directs the concerned Tribunal to accept the appeal by condoning the delay as well as exempting the petitioner from depositing the statutory amount on the ground of hardship.

The impugned order in the writ petition has arisen out of the order Nos. 81 of 2019 dated 02.12.2019, 18 of 2022 dated 28.02.2022, 35 of 2022 dated 09.03.2022, 70(ka) of 2022 dated 30.05.2022 passed by the Commissioner of Customs, Customs Bond, Commissionerate which are still in force.

It is well settled that a writ against the adjudication order is not maintainable under the provision of Section 195(A) of the Custom Act, 1969 as well as Section 227 of the Customs Act, 2023.

In view of the facts and circumstances stated above, we are of the view that justice would be best served if we discharge the Rule with necessary directions.

Accordingly, the Rule is discharged as being not maintainable.

The petitioner will be at liberty to prefer appeals challenging the adjudication order Nos. 81 of 2019 dated 02.12.2019, 18 of 2022 dated 28.02.2022, 35 of 2022 dated 09.03.2022, 70(ka) of 2022 dated 30.05.2022

before the Customs, excised and VAT appellate Tribunal within 30(thirty) days from the date of receipt of the copy of this judgment and order along with applications for condonation of delay (if so advised). If the petitioner prefers appeal within the prescribed period, the concern Tribunal may consider the said applications in accordance with the provision of Customs Act as well as Section 14 of the Limitation Act.

There will be no order as to costs.

Dihider Masum Kabir, J:

I agree.