IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(Special Original Jurisdiction)

WRIT PETITION NO. 21054 OF 2025

In the matter of:

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

And

In the matter of:

Auto Star Trade

… Petitioner

-Versus-

Commissioner of Customs, Customs House, Mongla, Bagerhat, Bangladesh and others.

… Respondents

Mr. Mohammad Mizanur Rahman, Advocate

…For the petitioner

Mr. Md. Abdus Samad Azad, DAG with
Mr. Mohammad Alam Khan,
Mr. Mohammad Delawar Hosain,
Ms. Sabikun Nahar, and
Mr. Md. Arifur Rahman, AAGs.

…For the respondents

Heard on: 20.08.2026 and 02.09.2026
Judgment on: 02.09.2026.

Present:
Mr. Justice Md. Mozibur Rahman Miah
And
Mr. Justice Rezaul Karim

Rezaul Karim, J.

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, a Rule Nisi was issued calling upon the respondents to show cause as to why the inaction of the respondents in determining the minimum value of reconditioned motor vehicles imported by the petitioner from Japan under Bill of Entry No. C-1381 dated 01.02.2025 (Annexure-C), in light of SRO No. ২১৮-আইন/২০১৭/৫৬/কাষ্টমস dated ০১.০৭.২০১৭, and the failure to release the imported vehicle of the petitioner should not be declared to have been made without lawful authority and of no legal effect 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, the respondent no. 1 was directed to release the petitioner's consignment under Bill of Entry No. C-1318 dated 01.02.2025 (Annexure-C), bearing Chassis No. DB82-0022200, 2019 Model, 2000 CC, Colour Pearl, Engine No. B48LL, HS Code 8703.23.31, from B. J. International Co. Ltd., Japan, after realisation of customs duty and other charges on the basis of the invoice, in cash, as fixed by the customs authority, and to pay the differential value determined by the customs authority on furnishing a bank guarantee within 30(thirty) working days from the date of receipt of the order.

Feeling aggrieved with the interim direction the respondent No. 1 preferred Civil Petition for Leave to Appeal No. 344 of 2026 before the Appellate Division against the said order dated 09.12.2025. By order dated 12.04.2026, the Appellate Division stayed operation of the order till disposal of the Rule and directed the competent Bench of this Division to dispose of the Rule expeditiously, preferably within a period of 2(two) months from the date of receipt of that order.

The salient facts leading to issuance of the instant Rule are that the petitioner, proprietor of Auto Star Trade, an importer of reconditioned motor vehicles, imported one reconditioned Toyota Supra, Chassis No. DB82-0022200, 2019 model, 2000 CC, Colour Pearl, Engine No. B48L, HS Code 8703.23.31, from B. J. International Co. Ltd. of Japan, under Letter of Credit No. 174424011522 dated 26.11.2024 issued by Mercantile Bank PLC, Dhanmondi Branch, Dhaka, on the basis of Invoice No. BJ-AST-1/5U-12/2024 dated 10.12.2024. The vehicle was shipped from Nagoya, Japan to the port of Mongla aboard the vessel Malaysia Passion on 10.12.2024, along with the Bill of Lading, the Certificate of Appraisal issued by the Japan Auto Appraisal Institute and the export and registration cancellation certificates issued by the concerned authority in Japan. Upon arrival, the petitioner submitted Bill of Entry No. C-1381 dated 01.02.2025 through its C&F agent for assessment of customs duty and release of the vehicle, declaring the price appearing in the invoice.

It is the petitioner's case that under section 25(1) of the Customs Act, 1969, the value for assessment of customs duty is ordinarily the actual transaction price, though section 25(3) empowers the Government to fix, by notification, tariff or minimum values for goods chargeable with duty ad valorem, and that in exercise of that power, SRO No. ২১৮-আইন/২০১৭/৫৬/কাষ্টমস dated ০১.০৭.২০১৭ was issued fixing the minimum value of old and reconditioned motor vehicles on the basis of the average price of all code models appearing in the Yellow Book published in Japan, subject to depreciation according to the age of the vehicle. It is also the petitioner's case that in determining the minimum value of the imported vehicle, the customs authority ought to have taken the price appearing in the column of the Yellow Book corresponding to the actual year of manufacture, but instead took the average of all model code prices without regard to the year of manufacture, thereby substantially inflating the assessable value; Despite that the petitioner wrote a letter dated 04.05.2025 to the respondent no. 1 pointing out the inflation and praying for release of the vehicle upon provisional assessment but as no response was received, that compelled the petitioner to move this Court.

By filing an affidavit-in-opposition the learned Deputy Attorney General for the respondent No. 1 submits that, upon scrutiny, it was found that the Chassis No. DB82-0022200 of the imported vehicle does not appear in the Chassis Book published in Japan, suggesting that the vehicle, though shipped from Japan, was not manufactured there rather this type of vehicle is being manufactured in Austria; It has further been asserted that under the Restricted List as of appeared in Appendix-1 to the Import Policy Order, 2021-2024, serial No. ৬(ক)(আ) an old or reconditioned motor vehicle may only be imported from its country of manufacture and not through a third country; and that on this basis, the respondent No. 1 caused the matter to be verified and issued a show cause notice dated 24.11.2025 (Nathi No. এস/৮২০/গ্রুপ-০৪(এ)/এ্যাঃ/মোংলা/২০২৪-২৫/৬৭১১) calling upon the petitioner to show cause why penal action, including confiscation, should not be taken under section 171(1) clause (5) of the table read with section 17 of the Customs Act, 2023. It has further been stated that petitioner thus submitted a reply on 07.12.2025, and the proceeding is now pending before the customs authority. It has also been asserted though the show cause notice has been issued before issuance of the Rule, the said fact had not disclosed by the petitioner earlier.

We have heard the learned Advocate for the petitioner and that of the learned Deputy Attorney General gone through the writ petition, the affidavit-in-opposition and the documents annexed thereto. It appears that the respondent No. 1, upon detecting that the chassis number of the imported vehicle does not correspond to any entry in the Chassis Book published in Japan, during processing of the Bill of Entry has initiated a separate proceeding against the petitioner touching the very question of the vehicle's country of origin (manufacture) and its importability, by issuing a show cause notice on which the petitioner has already submitted a reply. That proceeding has a direct bearing upon the question of determination of value raised in this Rule and unless and until it is settled whether the vehicle qualifies for assessment under the SRO relied upon by the petitioner at all, or the imported consignment fulfill the condition of clause ৬(ক)(আ) of Appendix-1, Part-A of Import Policy order 2021-2024, the correctness of the value so determined cannot meaningfully be examined. We are therefore of the view that it would be appropriate for the concerned customs authority to dispose of the pending show cause proceeding in accordance with law, upon consideration of the petitioner's reply and after giving the petitioner an opportunity of being heard, rather than to enter into the merits of valuation at this stage by us.

Regard being had to the above, we do not feel it necessary to make any further observation on the merits of the case.

Accordingly, the Rule is disposed of.

The respondent No. 1 is hereby directed to dispose of the proceeding initiated vide Nathi No. এস/৮২০/গ্রুপ-০৪(এ)/এ্যাঃ/মোংলা/২০২৪-২৫/৬৭১১ dated 24.11.2025 in accordance with law, upon consideration of the petitioner's reply made against the show cause notice on giving the petitioner an opportunity of hearing.

Let a copy of this judgment and order be communicated to the respondents forthwith.

<u>Md. Mozibur Raman Miah, J.</u>

I agree.

Mazhar, BO