IN THE SUPREME COURT OF BANGLADESH

HIGH COURT DIVISION

(SPECIAL ORIGINAL JURISDICTION)

WRIT PETITION NO. 10605 OF 2026

In the matter of:

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

And

In the matter of:

Diplomat Bond Limited

... Petitioner

-Versus-

The Commissioner, Customs Bond Commissionerate, Dhaka (North) and others.

... Respondents

Mr. Zainul Abedin, Senior Advocate with
Mr. Fida M. Kamal, Senior Advocate,
Mr. Md. Ramzan Ali Sikder, Senior Advocate and
Mr. Md. Saiful Alam Chowdhury, Advocate

…For the petitioner

Mr. A.M. Jamiul Hoque (Faisal) DAG with
Mr. Md. Abdus Samad Azad, D.A.G
Mr. Mohammad Delawar Hosain, A.A.G,
Mr. Ariful Alam, AAG
Ms. Sabikun Nahar, A.A.G
Mr. Md. Arifur Rahman, A.A.G and
Mr. Mohammad Abdul Mannan, AAG

…For the respondents

Heard on 25.08.2026, 31.08.2026 and Judgment on 31.08.2026

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Rezaul Karim

Md. Mozibur Rahman Miah, 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 decision dated 20.07.2026 (Annexure-'A' to the writ petition) as uploaded in the Customs Bond Management System (CBMS) rejecting the petitioner's application for issuing Diplomatic Bonded Warehouse Licence in complete disregard of the existing provisions of law, non-application of mind and in violation of the principle of natural justice should not be declared to have been passed without lawful authority and is of no legal effect and also as to why the respondent nos. 1-4, Custom Bond Commissionerate, Dhaka (North) should not be directed to issue a Diplomatic Bonded Warehouse Licence in favour of the petitioner-company in pursuance of its application dated 21.01.2026 (Annexure-'E' to the writ petition), report submitted by the Licensing Committee on 16.04.2026 (Annexure-'G' to the writ petition), RJSC & F's Memo dated 29.06.2026 (Annexure-'J-2' to the writ petition) and the online uploaded petitioner's application dated 11.07.2026 (Annexure-'H-2' to the writ petition) and/or pass such other or further order or orders as to this court may seem fit and proper.

The salient facts leading to issuance of the instant rule are:

The petitioner company is a private limited company incorporated under the laws of Bangladesh and it was established with aims and objectives inter alia, to set up a diplomatic bonded warehouse to cater to the needs of the diplomats and privileged persons in Bangladesh. On 21.01.2026, the petitioner company applied to the Customs Bond Commissionerate, Dhaka (North) for issuing a Bonded Warehouse

Licence in accordance with Rule 5 of the Bonded Warehouse Licensing Rules, 2024. Upon receipt of the petitioner company's application, the respondent No. 1, Customs Bond Commissionerate, Dhaka (North) sought clarification and also requested for certain documents on 05.02.2026 and in response, the petitioner company sent its detailed response on 01.03.2026 clarifying all the points addressed in the said letter and also furnished additional documents. Thereafter, upon receiving all the above documents, the respondent No. 1 directed the Licensing Committee to check, review and verify documents and inspect the premises of the petitioner company. The Licensing Committee then on 05.04.2026, submitted its Report on 16.04.2026 and forwarded its Report to the Commissioner, Customs Bond Commissionerate, Dhaka (North) on 19.04.2026 recommending to issue a Bonded Warehouse Licence in favor of the petitioner company. After submission of all the above relevant documents as per the requirement of the respondent Nos.1 to 4, while the petitioner was waiting for issuance of the Customs Bonded Warehouse Licence in its favour, suddenly on 20.07.2026, the petitioner company was surprised to see a Rejection Notice (Annexure-A to the writ petition) on the petitioner company's online portal at the CBMS, on the grounds that :-

(i) The applicant company did not submit the up-to-date Schedule-X and Form-XII from the RJSC&F regarding the ownership of the applicant company; and

(ij) The Chairman of the company does not have the capability (Wealth Statement) to furnish Bond in proportion to his current assets as

per the IT10B of the Chairman of the Company and the Company did not submit the IT10B of the shareholders of the Company.

That in the above facts and circumstances, the petitioner was constrained to serve a Legal Notice /demand of justice notice upon the respondents on 22.07.2026. Since the respondents did not take any action whatsoever the petitioner company also filed a representation on 27.07.2026 for reconsidering the decision of the respondent no. 1-Customs Bond Commissionerate, Dhaka (North) and also prayed for issuing the Diplomatic Bonded Warehouse Licence in favour of the petitioner. That despite receipt of the Legal Notice and also the petitioner's representation, the respondents did not pay any head to the same and thus , the petitioner was also constrained to prefer an appeal before the Customs, Excise & VAT Appellate Tribunal o n 29.07.2026 whereon the said Customs, Excise & VAT Appellate Tribunal declined to acknowledge receipt of the same stating that they have never received such kind of any appeal in the past. Thus, the petitioner was constrained to send the Memo of Appeal along with the relevant documents, and Appeal Fee Deposit Slip by courtier on 29.07.2026 to the Tribunal.

Mr. Zainul Abedin, learned senior counsel appearing for the petitioner by taking us to schedule-2 of Warehouse Licensing Rules, 2024(herein after referred to as "Rules") at the very outset submits that the documents as has been set out in the said schedule does not include document about the current ownership of the petitioner's company issued by the RJSC in schedule –X and Form-XII of the Companies Act, 1994 and wealth statement of the Chairman and the Share holders of the

company as per IT10B of the Income Tax Act, 2023 and therefore impugned letter refusing to issue licence for want of those document is totally unjustified.

The learned counsel by taking us to the Rule also contends that there have been mentioned as many as 22 documents required for issuing such licence having no condition to submit the document as mentioned in the impugned letter and therefore the impugned letter dated 20.07.2026 issued at the instance of respondent no. 1 is devoid of any substance. At the time when we asked the learned senior counsel since there has been clear provision to prefer appeal against any decision of the licencing authority in rule 24, the learned senior counsel then finds it difficult to assail the impugned action in writ jurisdiction and (on 25.08.2026) took adjournment to let this court inform about his decision to proceed with the hearing of the matter till next fix date. On that obvious reason, we posted the matter today (31.08.2026) for passing "order". Today, when the matter was taken up for passing order, Mr. Fida M. Kamal, learned senior counsel filed a supplementary-affidavit and submits that the writ itself is maintainable since under the provision of section 226 of the Customs Act there has been no scope to prefer appeal before the appellate tribunal since the impugned letter is not any adjudication order (ন্যায়নিনয়ক) within the meaning of section 2(29) of the Customs Act,2023.

The learned counsel also contends that since there has been no scope rather impractical for each and every share holder of the

petitioner's company to submit their IT 10B form to obtain licence and in that sense the impugned decision clearly suffers from vagueness.

The learned counsel by referring to section 12 of the Customs Act also contends that, authority has also been bestowed upon the customs authority (Commission of Customs or NBR) for issuing licence or cancelling of the same against which the appeal can be preferred but as the rule is the subordinate legislation of the parents Act that is, Customs Act, so there is no scope for the petitioner to prefer appeal even under rule 24 of the rules of 2024.

The learned counsel by referring to paragraph no. 18 to the writ petition also contends that still petitioner for invoking the appellate authority attempted to prefer an appeal but the appellate tribunal (Customs Excise and VAT Appellate Tribunal) declined to acknowledge receipt of the same, compelling the petitioner to sent the memo of appeal by annexing the relevant documents and on depositing respective fee on 29.07.2026 to the Appellate Tribunal but as the Tribunal did not take any positive step, the petitioner has thus filed the instant writ petition.

The learned counsel lastly contends that since under the Parents Act as well as the rule, the remedy enshrined therein against the impugned action is not any equally efficacious remedy so the petitioner has compelled to file the instant writ petition and in support of his such submission, the learned counsel has then cited a decision reported in 11 BLD (AD) 327 and takes us through paragraph no. 12 and finally prays for making the rule absolute.

On the flipside, Mr. A.M. Jamiul Hoque (Faisal), learned Deputy Attorney General at the very outset submits that since the petitioner filed the application for obtaining bonded ware licence under the provision of section 5 of Rules of 2024 as has been clearly asserted in paragraph no. 7 to the writ petition supported by Annexure-'E' thereof so there is no scope other them to invoke 24 of the Rules of 2024 in preferring appeal since the impugned action is a decision of the licensing authority.

The learned Deputy Attorney General by referring to section 263 of the Customs Act also contends that under that very provision rules are framed for different purposes and the Rules of 2024 is one of them and under rule 24 of Rules of 2024, the petitioner has to prefer appeal having no scope to assert that the said provision is not equally efficacious and it goes beyond the parent law. With those legal submissions, purely on the point of maintainability, the learned Deputy Attorney General finally prays for discharging the rule.

Be that as it may, we have considered the submission so placed by the learned senior counsels for the petitioner and that of the learned Deputy Attorney.

Together, we have very meticulously gone through the provision provided in sections 225, 226, 12, 263 and 2(29) of the Customs Act and that of rules 2(eo) (ta) (ঞ) (ট) (3)(5) and 24 of ওয়্যারহাউজ লাইসেন্সিং বিধিমালা, ২০২৪ Rules of 2024. There has been no gainsaying the fact the petitioner once preferred appeal which has clearly been asserted in paragraph no. 18 to the writ petition so undoubtedly it is presumed that the petitioner by admitting the statutory authority of the tribunal preferred that appeal

but whether the said appellate authority entertained the appeal, that information is not available to us right at this moment. Since there has been a statutory provision of appeal against the impugned decision, the appellate authority is duty bound to entertain and dispose of the same if preferred upon performing other legal formalities. Furthermore, though the learned senior counsel for the petitioner very candidly submits that since the impugned decision is not an adjudicating order within the meaning of section 2(29) as well as section 226 (1)(ka) of the Customs Act, so there is no scope for the petitioner to prefer appeal to the said appellate forum as per rule 24 of Rules of 2024. But we are not at one with the said submission on the face of the impugned letter. Because, by the impugned letter, the licensing authority has declined to issue licence to the petitioner outlining specific reasons and whether those reasons will be sustainable or not it can well be adjudicated by the appellate authority. Clearly, the impugned decision is not any adjudication order so what will be the manner of decision to be taken in the appeal, it entirely up to the appellate authority under rule 24 of the Rules of 2024 where it has clearly been asserted *"লাইসেন্সিং কতৃপক্ষের যে কোন সিদ্ধা*

সংক্ষুব্ধ ব্যক্তি সিদ্ধান্ত প্রদানের ৩(তিন) মানের মধ্যে কাষ্টমস, এক্সাইজ ও মূল্য সং

আপিল ট্রাইবুনালে আপিল দা "

Then again, who will be the appellate authority has also been asserted in sections 2 (Tha) and 3 of the Rules of 2024 as well. So, there has been no scope to file writ petition other than to prefer appeal and for that obvious reason the decision referred by the learned senior counsel reported in 11 BLD (AD) 327 has got no manner of application in the

facts and circumstances in the instant case when the petitioner in paragraph no. 18 has clearly admitted to have appellate forum and it also prayed for licence under rule 5 of the Rules of 2024 as discussed earlier. So, once the petitioners has invoked the appellate forum and asserting, the jurisdiction of licensing authority, there is no scope to file a writ petition because that very appellate authority is the only equally efficacious remedy to the petitioner. Overall, we don't find any substance to the submission so placed by the learned senior counsels for the petitioner.

Accordingly, the rule is discharge however without any order as to costs.

After pronouncing the judgment, Mr. Kamal submits that since in the meantime the petitioner has preferred appeal under the provision of rule 24 of Rules of 2024, so the appellate authority may be directed to dispose of the same by giving a time frame. We find the said submission reasonable.

Hence, the Customs, Excise and VAT Appellate Tribunal, Rajashwa Bhaban (Level 10), Plot No. F 1/A, Agargaon, Sher-E-Bangla Nagar, Dhaka, 1207 is hereby directed to dispose of the appeal if so filed as expeditiously as possible preferably within a period of 01(one) month from the date of receipt of the copy of this order after due completion of official formalities.

Let a copy of this order be communicated to the respondents including Customs, Excise and VAT Appellate Tribunal, Rajashwa

Bhaban (Level 10), Plot No. F 1/A, Agargaon, Sher-E-Bangla Nagar, Dhaka, 1207 forthwith.

Rezaul Karim, J.

I agree.

*Kawsar/**A.B.O.***