

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

WRIT PETITION NO.418 of 2012

IN THE MATTER OF:

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

And

IN THE MATTER OF:

Md. Mizanur Rahman

... Petitioner

-vs-

***The Commissioner of Customs (Import),
Customs House, P.S. Bandar, District
Chittagong and others.***

... Respondents.

And

Mst. Khairunnessa, Advocate with
Mr. Mohammed Mutahar Hosain, Advocate with
Mr. Mohammad Sultan Mahmud, Advocate and
Mr. Md. Saimum Islam, Advocate`
.... For the Petitioner.

Mr. Samarendra Nath Biswas, D.A.G. with
Mr. Md. Abul Kalam Khan (Daud), A.A.G. with
Mr. Md. Modersher Ali Khan (Dipu), A.A.G.with
....For the Respondents-government.

Heard and judgment on:25.04.2024

Present:

Mrs. Justice Farah Mahbub.

And

Mr. Justice Muhammad Mahbub Ul Islam

Farah Mahbub, J:

Today, the matter has appeared in the list for order.

In this Rule Nisi, issued under Article 102 of the Constitution of the People's Republic of Bangladesh, the respondents have been called upon to show cause as to why the arbitrary change of H.S. Code from 6001.10.00 to 6006.34.00 of the petitioner's imported goods by ignoring the CRF Certificate vide Note No. 04 of Nathi No. 1534/ Import/ Section-4/11-12 (Annexure-F) and withholding release of goods under L/C No. 108311010077 dated 23.08.2011, CRF No. SG/11/705059 dated 12.11.2011 corresponding to Bill of Entry No. C-149724 dated 04.12.2011 upon which duties and taxes had been paid on 14.12.2011 on basis of H.S. Code certified in the CRF and also, failure of the respondent No. 1 to release the goods upon making provisional assessment for the disputed H. S. code in violation of Rule 22(4) of the Pre-Shipment Inspection Rules 2002, should not be declared to have been done without lawful authority and hence, of no legal effect.

At the time of issuance of the Rule, this Court directed the respondent No.1 to release the petitioner's goods imported under Letter of Credit No. 108311010077 dated 23.08.2011, certified under CRF No. SG/11/705059 dated 12.11.2011, B/E No. C-149724 dated 04.12.2011 upon which duties and taxes had been paid on 14.12.2011 on furnishing continuing Bank Guarantee for the differential amount of duties, taxes and other charges for the goods under H.S. Code No.6001.10.00 as certified in the CRF and under H.S. Code 6006.34.00 as demanded by the Customs authority within a prescribed period.

In view of the statements so made in the writ petition, Ms. Khairunessa, the learned Advocate appearing for the petitioner drawing

attention to Annexure -E2, the assessment notice dated 13.12.2011 submits that since final assessment has already been made by the Customs authority as such, an accommodation be given to the petitioner to prefer an appeal before the forum created under the Customs Act, 1969 and till filing of the appeal the operation of the respective bank guarantee be kept in abeyance.

Mr. Samarendra Nath Biswas, the learned Deputy Attorney General appearing with Mr. Md. Abul Kalam Khan (Daud), the learned Assistant Attorney General for the respondent-government submits that in view of submission of the petitioner this Rule be disposed of.

In view of the submissions of the learned Advocate for the petitioner the goods has already been released pursuant to the order given by this Court upon furnishing bank guarantee and that final assessment has already been made by the Customs authority dated 13.12.2011.

Accordingly, the petitioner is at liberty to prefer an appeal challenging the final assessment made by the Customs authority dated 13.12.2011 so far as it relates to change of H.S. Code in connection with the goods in question before the authority concerned under the Customs Act, 1969 in due compliance of law, within a period of 90(ninety) days from the date of receipt of the copy of this judgment and order.

Till that period the operation of the respective bank guarantee be kept in abeyance.

If, however, the petitioner fails to prefer appeal within the said prescribed period the Customs authority will be at liberty to take necessary steps in due compliance of law.

In view of the above, this Rule is accordingly disposed of.

There will be no order as to costs.

This application for disposal of the Rule is kept with the record.

Communicate the judgment and order to the respondents concerned at once.

Muhammad Mahbub Ul IslamJ:

I agree.