

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

WRIT PETITION NO. 3000 OF 2012

IN THE MATTER OF:

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

And

IN THE MATTER OF:

Joarder Nowsher Ali

.... Petitioner

-Vs-

***Commissioner of Customs, Customs House
P.S.-Bandar, District- Chattogram and others.***

....Respondents.

Mr. Md. Mizanul Hoque Chowdhury, Advocate
...for the petitioner

Mr. Akhtar Farhad Zaman, Deputy Attorney General with Ms. Sadia 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 05.05.2026

Present:

Mr. Justice S.M. Maniruzzaman

and

Mr. Justice Dihider Masum Kabir

S.M. Maniruzzaman, J:

This Rule was issued on 22.03.2012 in the following terms;

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the order passed in the Nathi

No. 499/Ap/Sec-6/2011-2012 dated 04.03.2012 assessing the petitioner's imported consignment of furniture and wooden slab under H.S. Code No. 9401.61.00 and 9401.60.00 instead of H.S. Code No. 9403.89.00 and 4407.29.00 along with fixing the arbitrary value and also imposing personal penalty of Tk. 10,50,000/- and redemption fine of Tk. 30,00,000/- alleging violation of Section 32 of the Customs Act, 1969 should not be declared to have been made without lawful authority and of no legal effect 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 an interim order was passed in the following terms;

“Pending hearing of the Rule, the operation of the order contained in Nathi No.499/Ap/Sec-6/2011-2012 dated 04.03.2012 confiscating the petitioner's goods imported under Letter of Credit No. 100811010792 dated 27.12.2011 and Bill of Entry No. C-17745 dated 12.02.2012 is stayed for a period of 04(four) months from date and the respondents are directed to release the consignment on payment of duties and taxes upon making assessment under H.S. Code No. 9403.89.00 and 4407.29.00 on invoice value in cash and on

furnishing Bank Guarantee for the excess demanded duties and taxes arising out of assessment under H.S. Code No. 9401.61.000 and 9401.60.00 as demanded by the Customs Authority through impugned order and also providing Bank Guarantee for the penalty amounts (both personal penalty Tk. 10,50,000/- as well as (বিমোচন জরিমানা Tk. 30,00,000/-) within 03(three) days from the dated of receipt of a copy of this order.”

In compliance of the interim order of direction the petitioner took delivery of the goods upon payment of customs duty and taxes on the basis of declared H.S. Code in cash and by furnishing bank guarantee for the differential amount of duty and taxes including fine and penalty.

In the instant case, the petitioner filed the writ petition challenging the adjudication order passed by the Commissioner of Customs, Customs House, Chattogram bearing Nathi No. 499/Ap/Sec-6/2011-2012.

Mr. Md. Mizanul Hoque Chowdhury, the learned Advocate appearing for the petitioner submits that although the goods in question has been released by the Customs authority as per interim order passed by this Court, due to miscommunication with his client, he could not invoke the appeal against the adjudication order as required under the provision of the Customs Act, 1969.

Mr. Chowdhury further submits that he has received an information from his client, he is now ready to prefer an appeal before the Customs, Excise and VAT Appellate Tribunal in accordance with law, if this Hon’ble

Court is pleased to direct the concerned Tribunal to hear and dispose of appeal on merit after condoning the delay.

Mr. Akhtar Farhad Zaman, the learned Deputy Attorney General appearing on behalf of the respondent-government submits that the writ petition against the adjudication order is not maintainable and as such the Rule is liable to be discharged.

It however appears that the adjudication order passed by the Commissioner of Customs is appealable order under Section 196A of the Customs Act, 1969, but during pendency of the Rule, the petitioner did not prefer any appeal before the Tribunal challenging the adjudication order in question by invoking appropriate forum.

Since the writ petition is not maintainable, at this juncture, we are of the view that ends of justice would be best served if the Rule is discharged with a direction allowing the petitioner to prefer an appeal against the impugned order before the Tribunal within a reasonable time.

Accordingly the Rule is discharged as being not maintainable.

The petitioner is directed to prefer an appeal before the Customs, Excised and VAT Appellate Tribunal within 30(thirty) days from the date of receipt of the judgment and order along with an application for condonation of delay, failing which the Commissioner of Customs will be at liberty to realize the demanded amount by encashment of the Bank Guarantee .

If the petitioner (if so desire) prefers an appeal within the stipulated time, the concerned Tribunal may consider the application for condonation

of delay in accordance with the provision of the 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.

Md. Mashud sikeder-A.B.O.