

OD-01

WPO/517/2025
THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

Bhiswadeb Chatterjee
Versus
Principal Commissioner of Customs (Port)

Before:
The Hon'ble JUSTICE RAJA BASU CHOWDHURY
Date: 4th September 2025

Appearance:
Mr. Shaunak Ghosh, Advocate
Mr. Ashok Bhowmik, Advocate
Ms. Shrayashi Maiti, Advocate
for the petitioner

Mr. Vipul Kundalia, Sr. Advocate
Mr. Kaustav Kanti Maiti, Advocate
Mr. Anindya Kanan, Advocate
for the respondent

The Court: 1. Affidavit of service filed in Court today is taken on record.

2. The present writ petition has been filed inter alia challenging the order in original dated 7th April 2025 passed under section 124 of the Customs Act, 1962 (hereinafter referred to as “the said Act”).

3. The matter pertains to smuggling of red sanders. The petitioner claims to be a Customs Authorised Clearing and Forwarding Agent and in usual course had undertaken a job of clearance against shipping bill no.3134799 dated 5th June 2014 and shipping bill no.3690990 dated 4th July 2014 in respect of M/s. Akash Ganga Enterprises as per the

instructions from one Sudhir Jha. The petitioner claims that the petitioner later discovered that the signature of the proprietor of M/s. Akash Ganga Enterprises affixed on the documents shown to the petitioner were not matching with the signature found on the document submitted by the petitioner with the Director of Revenue Intelligence (DRI). The goods which were purported to be imported under the cover of aforesaid shipping bills were discovered to be smuggling of prohibited goods through Kolkata Port and as such proceedings had been initiated. It is in the aforesaid proceedings, which were held upon due notice to the petitioner, the petitioner was implicated as being liable under section 114(i) and 114AA of the said Act, for export of 30 MT of red sanders in two consignments corresponding to the two shipping bills. Consequently a penalty of Rs.50 lakhs had been imposed.

4. Having heard the learned advocates representing the respective parties, I find that the above order is an appealable order and the statutory appeal is maintainable under provision of section 129A of the said Act, within a period of three months from the date of communication of the impugned order. I find that the writ petition has been affirmed on 10th July 2025. I also note that the appellate tribunal has the power to entertain the appeal by condoning delay.

5. Thus, on the ground of availability of alternative remedy and noting from the order impugned that diverse disputed question of facts would be required to be gone into, in my view, it shall not be prudent to entertain the writ petition. As such on the ground of alternative remedy the writ petition is not entertained. However, if the petitioner files a

statutory appeal within three weeks from date, the appellate tribunal by noting the pendency of the writ petition before this Court, shall consider the petitioner's appeal on merits, subject to compliance of other formalities.

6. The writ petition is accordingly disposed of.

(RAJA BASU CHOWDHURY, J.)

R. Bose