S/L 6
02.07.2026
Court No.7
SD

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION

FMA 1 of 2026
CAN 1 of 2026

Md. Tashin Shah
Vs.
The Chief Commissioner of Customs & Ors.

Mr. Bikramaditya Ghosh
Mr. Ved Rai
Mr. Mayank Bhandari
Mr. Vivek Saha
Mr. Binayak Bandopadhyay
... for the Appellant.
Mr. Ratan Banik
... for the Respondents.

1. The writ petitioner has preferred the appeal challenging the judgment passed by the learned Single Judge on February 17, 2026 relegating the petitioner to the statutory appellate authority under Section 128 of the Customs Act, 1964 for claiming interest on the amount that has been decided to be paid to the petitioner.

2. Learned advocate for the appellant submits that the learned Single Judge considered the order of payment to be an Original Order. The order dated February 9, 2026 sanctioning payment was merely in compliance with the direction passed by the Hon'ble Division Bench of this Court on 14th March, 2023 in CUSTA/22/2022, IA No. GA 2/2022. The sanction cannot be treated to be

an adjudicating order appealable before the statutory appellate forum.

3. Prayer has been made to direct the authority to grant interest on account of delay on the part of the authority in making payment within the time limit specified by the Hon'ble Court.

4. On a perusal of the order dated February 9, 2026 passed by the Assistant Commissioner, Naxalbari Customs Division captioned as 'Order-in-Original' it appears that the same is an order of sanction of payment being the tariff value of 82.92 metric tons of Betel Nuts (Areca Nuts) seized on March 1, 2016 under Section 27 of the Customs Act, 1964.

5. The adjudication order under the Act stood set aside by the Tribunal. The appeal preferred by the department stood dismissed on 14th March, 2023. The Hon'ble Division Bench granted liberty to the appellant to seek payment of the value of the goods seized on 1st March, 2016 as the same perished by the time the proceeding concluded.

6. Availing the liberty granted by the Hon'ble Division Bench the appellant through his legal representative applied before the

authority praying for release of the value of the seized goods along with interest.

7. By the order 9th February, 2026 the Assistant Commissioner sanctioned payment of the tariff value of the seized goods but did not pass any order upon consideration of petitioner's prayer for grant of interest.

8. At the time when the writ petition was filed, the tariff value was neither adjudicated nor paid to the appellant. During pendency of the writ petition, the tariff value has been sanctioned and disbursed. The petitioner merely claims interest to be paid on the delayed payment of the tariff value.

9. In support of the submission that interest ought to be paid, reliance has been placed on the judgment delivered by the Hon'ble Supreme Court in the matter of *Northern Plastics Ltd. Vs. Collector of Customs & Central Excise* reported in *(2000) 1 SCC 545* wherein the Hon'ble Court was pleased to direct the authority to return the amount with interest.

10. Reliance has also been placed on the judgment delivered by the Hon'ble Supreme Court in the matter of *Dr. Poornima Advani & Anr. Vs. Government of NCT and Another* reported in *(2025) 7 SCC 269* wherein the

concept of payment of compensation has been discussed. The Court was of the opinion that the respondents could not have denied the refund of amount along with interest.

11. Learned advocate representing the respondent submits that prayer for interest made by the appellant before the Hon'ble Division Bench of this Court was disallowed.

12. It has further been pointed out that the appellant never approached the authority praying for interest.

13. It has been submitted that the order by which the tariff value has been sanctioned ought to have been appealed before the appellate forum as the same is an order in original.

14. We have heard the submissions made on behalf of both the parties and have perused the documents annexed to the application for stay filed in connection with the appeal.

15. It is evident that the appellant did actually pray for interest before the authority in terms of the liberty granted by the Hon'ble Division Bench. The same has not been considered by the authority.

16. The appellant approached the Hon'ble Division Bench in the earlier proceeding with a prayer for grant of interest after the appeal

stood disposed of. The Hon'ble Division Bench vide order dated February 14, 2025 clearly recorded that the appeal stood disposed of by judgment and order dated March 14, 2023. The application was filed thereafter.

17. The Hon'ble Division Bench observed that the appellant may invoke other remedies under the law claiming interest. The issue of interest does not appear to have been adjudicated either by the authority or by any judicial forum. No decision has been taken by any of the fora as regards payment of interest claimed by the appellant.

18. The submission of the respondents that the order dated February 9, 2026 is required to be thrashed out before the statutory appellate forum as the same is an Order-in-Original cannot be accepted by the Court.

19. It appears that the said order is a mere sanction order of the tariff value passed in compliance with the direction passed by the Hon'ble Division Bench of this Court on March 14, 2023 in CUSTA 22 of 2022. The same cannot be treated to be an adjudication order appealable under the statute.

20. The appellant does not dispute the tariff value that has been sanctioned in respect of the seized articles on March 1, 2016. The appellant only prays for a direction upon the authority for grant of interest on account of delayed payment of the tariff value.

21. The appellant has drawn notice of the Court to the representation which was filed before the authority on December 13, 2024 praying for refund of the amount along with interest. The prayer for interest has not been considered till date.

22. In view of the discussions made hereinabove, the Court is of the opinion that the learned Single Judge erroneously considered the order dated February 9, 2026 as an appealable order before the statutory appellate forum. The impugned order of the learned Single Judge, accordingly, stands set aside.

23. The respondent authority is directed to take a decision on the representation made by the appellant seeking interest on account of the delayed payment of the tariff value of the seized articles.

24. A decision shall be taken on the prayer made by the appellant in the representation dated December 13, 2024 in accordance with

law and in line of the decisions passed by the Hon'ble Supreme Court referred to hereinabove at the earliest but positively within a period of eight weeks from the date of communication of this order.

25. If any amount is found due and payable, the same shall be disbursed in favour of the appellant immediately thereafter.

26. If the prayer of the appellant is rejected, then ground for rejection shall be communicated to the appellant without any delay.

27. The appeal and the connected application stand disposed of.

28. Parties to act on the basis of the server copy of this order duly downloaded from the official *website* of this Court.

29. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)

(Ajay Kumar Gupta, J.)