

Form J(2)
JPD Sl.No. 9
Moumita

In the High Court at Calcutta
In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Aniruddha Roy

WPA 720 OF 2026

M/s. Om Sai Trading Company

Vs.

Union of India & Ors.

For the Petitioner : Mr. Abhratosh Majumdar, Sr. Adv. (VC)
Mr. Pooja Sah, Adv.
Mr. Pulkit Barman, Adv.
Mr. Alok Sah, Adv.
Ms. Pooja Sah, Adv.
Ms. Rajarshree Mukherjee, Adv.

For the Respondents : Mr. Ratan Bank, Adv.
Mr. Bishwa Raj Agarwal, Adv.

Heard on : May 20, 2026

Judgment on : May 20, 2026
[In Court]

Aniruddha Roy, J. :

1. Mr. Abhratosh Majumdar, learned Senior Advocate (VC), appears for the petitioner with Ms. Puja Sah, learned Advocate (VC) and Ms. Rajashree Mukherjee, learned Advocate.

2. Mr. Ratan Banik, learned Advocate (VC) with Mr. Bishwa Raj Agarwal, learned Advocate appears for the Customs Authority.
3. Through this writ petition, the petitioner has challenged the impugned order dated **April 22, 2026** which was communicated by a communication dated **April 24, 2026, annexure p-8 at page 84** to the writ petition.
4. The order at the threshold refers to the reports of the expert laboratory on the basis whereof the order was passed rejecting the prayer of the petitioner for provisional release of the consignment seized.
5. Mr. Abhratosh Majumdar, learned Senior Advocate appearing for the petitioner submits that the said reports of the expert laboratories which are the foundation of the said impugned order were never provided to the petitioner prior to the said impugned order was passed and as a result the petitioner could not deal with same which is an elementary violation of the principle of natural justice.
6. Mr. Ratan Banik, learned Advocate appearing for the customs on instruction from his client submits that the reports of the expert laboratories were not supplied to the petitioner, as the petitioner did not ask for it. However, the learned Advocate is carrying the reports with him today. Learned Advocate for the customs submits that there is an alternative statutory remedy available where the impugned order could have been challenged, as such, this writ petition is not maintainable.

7. After considering the rival submissions of the parties and on perusal of the materials on record it appears to this Court that, the reports of the expert laboratories referred to in the impugned are the foundation of the impugned order rejecting the claim of the petitioner. Admittedly the reports of the laboratories have not been provided to the petitioner.
8. The law is well-settled that, when a material has been relied upon negating the claim of the petitioner and when such material is the foundation of the decision, the materials have to be provided to the party whose claim have been rejected, so that the party can deal with those materials and make its submissions during the adjudication.
9. In the event, such materials are not provided, as in the instant case the reports of the laboratories, to the petitioner, it is a gross and elementary breach of the principle of natural justice. The law is well-settled that, when there is a palpable breach of the natural justice ex facie apparent on the face of record, alternative remedy cannot stand in the way to entertain the writ petition, as it is always a self-imposed restriction by this constitutional Court in exercising its plenary power under Article 226 of the Constitution of India.
10. In view of the above, this writ petition is entertained and the impugned order dated **April 22, 2026** and any further or other step or steps therein or thereunder in relation thereto stands **set aside** and **quashed**.

11. Mr. Bishwa Raj Agarwal, learned Advocate appearing for the customs has made over copies of both the reports of the expert laboratories to Ms. Rajashree Mukherjee, learned Advocate appearing for the petitioner.
12. The petitioner shall be at liberty to file a supplementary application with its further contention but restricting the same to both the said laboratory reports and not beyond that. The customs authority shall take steps afresh, strictly in accordance with law and shall consider the application submitted by the petitioner for provisional release of the consignment as expeditiously as possible but positively within six weeks from the date of receiving the said supplementary application, if any, and dispose of the same by a reasoned order.
13. It is made clear that, this Court has not gone into the merits of the application for provisional release and the parties shall be at liberty to urge their respective points before the jurisdictional authority.
14. With the above observations and directions, this writ petition **WPA 720 of 2026** stands **allowed**, without any order as to costs.
15. Parties shall act on the basis of the server copy of this judgment duly downloaded from the official website of this Court.

(Aniruddha Roy, J.)