ORDER OD – 9

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/47/2026
SPRINGVALLEY MARKETING PRIVATE LIMITED AND ANR.
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE OM NARAYAN RAI
Date: 16th February, 2026.

Appearance:-

Mr. Rachit Lakhmani, Adv.
Mr. P. Kumar, Adv.
Mr. R. N. Banerjee, Adv.
Ms. Rupsha Chaterjee, Adv.
…for petitioner.

Mr. Kaushik Dey, Adv.
Mr. Tapan Bhanja, Adv.
…for respondents.

Ms. Sanjukta Gupta, Adv.
…for UOI.

The Court:- This writ petition mounts challenge *inter alia* to an order dated August 21, 2025 directing provisional release of import consignment under Section 110(A) of the Customs Act, 1962.

The petitioner had imported Base Orange Aroma (Base Orange N) which had been seized by the Customs Authorities on June 12, 2025. The petitioner requested the Respondent Customs Authorities for provisional release of the seized goods whereupon the impugned provisional release order was passed imposing certain conditions for the provisional release.

Mr. Lakhmani, learned advocate appearing for the petitioner submits that the order impugned dated August 21, 2025 has been passed in such a manner that it has become almost impossible for the petitioner to meet the conditions mentioned therein and get the seized goods released.

It is further submitted that the seized imported material i,e. base orange aroma had been sent for testing to Central Revenue Control Laboratory (CRCL), Kolkata for determination of the composition of the said imported material prior to the passing of the provisional order by assessment (i,e. before August 21, 2025), but such testing has still not been done.

It is next submitted that if the test results indicate that the imported material does not have any nutritional value, then in such case, the petitioner would be in any event entitled to release of all the seized goods. Mr. Lakhmani submits that the petitioner is confident enough that the seized materials would be classified under the Tariff Code No.33029090 as certified by the petitioner's exporter and that being so, upon the testing being done the petitioner's goods have fair chances of being released.

He further submits that since abnormal conditions have been imposed in the provisional release order thereby making it well nigh impossible for the petitioner to seek release of the goods, this Court should intervene and modify the conditions so as to enable the importer to meet them.

Mr. Dey, learned advocate appearing for the respondent Customs Authorities submits that the provisional release order can no longer be assailed by the petitioner. It is submitted that it was open to the petitioner to carry the provisional order in appeal before the appellate tribunal under Section 129A of the said Act of 1962. Not having done so, the petitioner has allowed the said order to attain finality.

It is further submitted that testing of the seized material is done by the relevant laboratory authorities over which the respondent Customs Authorities do not have any direct control.

Heard learned advocates appearing for the respective parties and considered the material on record.

There is force in the submission of Mr. Dey that the order of provisional assessment should not be interfered with by this Court under Article 226 of the Constitution of India, especially when the remedy of statutory appeal has not been availed by the petitioner and when there is no good ground shown for this Court to intervene despite non availment of the appellate remedy within the statutory period prescribed therefor.

It is noticed that the writ petitioner has approached this Court only in January 2026, while the order of provisional assessment was passed as far back as on August 21, 2025. An appeal therefrom would have been timely if the same had been filed within 90 days from the date of the order with a further month available as condonable period. In such view of the matter, this Court is not inclined to interfere with the conditions imposed by the provisional release order.

However, since the seized goods have been with the relevant laboratory for a substantial period of time by now, therefore this Court deems it fit to direct the said laboratory i.e. the respondent No.4 herein, to complete the testing and inform the result thereof to the respondent Customs Authorities as expeditiously as possible and preferably within a period of four weeks from the date of communication of this order in view of the fact that the shelf life of the goods have been shown to be twelve months (page 35 of the writ petition) in terms of the information given to the petitioner by the laboratory.

With the aforesaid observations, WPO/47/2026 stands disposed of.

Since no affidavit-in-opposition has been called for, the allegations made in the writ petition shall be deemed not to have been admitted by the respondent.

It is clarified that this Court has not gone into merits of the petitioner's case and all points are left open to be urged by the parties before the appropriate forum.

[OM NARAYAN RAI, J.]

R. D. Barua