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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/932/2025

M/S JAI GURU IMPEX
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE OM NARAYAN RAI
Date : February 4, 2026.

Appearance :
Mr. Sukanta Ghosh, Adv.
Mr. Rohan Chamria, Adv.
Mr. Argha Chatterjee, Adv.
...for the petitioner

Mr. Kaushik Dey, Adv.
Ms. Ekta Sinha, Adv.
...for the Customs Authorities

The Court: This writ petition has been filed assailing a “Notice of Demand to Defaulter” dated December 1, 2025 as well as the preceding orders namely an order in original dated October 26, 2016, passed by the Deputy Commissioner of Customs (Port) and an order in appeal dated May 10, 2019, passed by the Principal Commissioner of Customs (Appeals).

The petitioner was sanctioned refund of Special Additional Duty (SAD) on September 12, 2014. Later on, upon scrutiny and verification of the authenticity of the Chartered Accountant certificate, which along with other documents formed the basis of such refund, it was found that such certificate was fake. Proceedings were, therefore, initiated against the petitioner under

Section 28 of the Customs Act, 1962 wherein ultimately, an order in original was passed on October 28, 2016 thereby holding the petitioner liable for a sum of Rs.1,79,818/- and imposing penalty of Rs.1,79,818/-.

The petitioner carried the matter in appeal before the Principal Commissioner of Customs (Port). The said appeal came to be dismissed on May 10, 2019. The petitioner did not take any step thereafter. On December 1, 2025, a "Notice of Demand to Defaulter" was served upon the petitioner. Feeling aggrieved thereby, the petitioner has approached this Court assailing the said notice as well as the preceding orders.

Mr. Ghosh, learned advocate appearing for the petitioner submits that in a similar situation, in the case of *Citizen Umbrella Manufacturers Ltd. vs. The Commissioner of Customs (Port) Kolkata (CUSTA/28/2024)* the Hon'ble Division Bench of this Court passed an order on 22nd May, 2024 and remanded the matter of the appellant before the Hon'ble Division Bench to the adjudicating authority for a fresh consideration upon taking into account another Chartered Accountant's certificate produced by the Appellant and also granted liberty to the appellant to produce other documents and records in support of its case that it was entitled to refund.

Mr. Ghosh, learned advocate appearing for the petitioner further submits that this Court should also pass similar orders on the present writ petition thereby remitting the petitioner's case to the adjudicating authority for a fresh consideration.

Mr. Dey, learned advocate appearing for the respondent Customs Authorities vehemently opposes such submission. It is submitted that the order dated October 28, 2016 has attained finality upon the same being confirmed by the appellate order dated May 10, 2019. It is submitted that once the order has attained finality, the same cannot be disturbed. It is further submitted that the petitioner cannot be allowed to take advantage of the order dated May 22, 2024, passed by the Hon'ble Division Bench inasmuch as in the said case, the appellant had approached the Hon'ble Division Bench upon its appeal before CESTAT being dismissed. The appellant before the Hon'ble Division Bench had, thus, pursued its remedy in accordance with law and had not allowed the orders passed by the relevant Customs Authorities to attain finality. Mr. Dey further submits that in the case at hand, remanding the petitioner's case back to the adjudicating authority would amount to interference with final orders without the same being challenged in statutory appeal. It is further submitted that the petitioner has not offered any explanation as to why has the petitioner approached this Court so late.

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

The order of the Hon'ble Division Bench passed on May 22, 2024, which forms the sheet anchor of the petitioner's case was evidently passed in a statutory appeal against an order passed by CESTAT. There is sufficient force in the submission of Mr. Dey that the appellant before the Hon'ble Division Bench had taken appropriate steps to challenge the original and appellate orders passed by the Customs Authorities, (which may have been similar to the order passed in the case of the petitioner), but in the present case, the petitioner has not taken any step to challenge the appellate order dated May 10, 2019 thereby allowing the same to attain finality. It is also evident that the petitioner has approached this Court only upon getting the “Notice of Demand to Defaulter” dated December 1, 2025. No explanation has been given by the petitioner for the grossly delayed approach to Court insofar as challenge thrown to the order dated October 28, 2016, affirmed by the order dated May 10, 2019, is concerned. There is nothing on record to demonstrate that the said orders fall in the category of such orders that are either without jurisdiction or in total violation of principles of natural justice or suffer from such other infirmity so as to persuade this Court to exercise its writ jurisdiction under Article 226 of the Constitution of India.

In such view of the matter, this writ petition is not entertained.

WPO 932 of 2025 stands dismissed without any order as to costs.

This order shall, however, not prevent the petitioner from preferring appeal before the appropriate appellate authority strictly in accordance with law.

(OM NARAYAN RAI, J.)

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