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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/156/2026
THE ANANDA BAG TEA COMPANY LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE :
HON'BLE JUSTICE SMITA DAS DE
DATE : 18th September, 2026.

Appearance :
Ms.Micky Chowdhury, Adv.
Mr. Protyush Chatterjee, Adv. …for petitioner.
Mr. Kaushik Dey, Adv.
Mr. Anurag Roy, Adv. …for Custom Authorities.
Mr. Samarjit Roy Chowdhury, Adv.
Mr. Amit Sharma, Adv.
Mr. Abhishek Kr. Agrahari, Adv. …for UoI.

The Court: - In the present writ petition the petitioner challenges, inter alia, the legality and the propriety of the order dated 11.2.2026 passed by the adjudicating authority to be perverse, since the reply annexing the relevant documents have not been considered at the time of adjudication which is de hors the mandate of the statute and is not permissible under law and is liable to be set aside.

The petitioner is the importer and has imported, 26000 kg of Ceylon Tea from Sri Lanka duty free against the Advance Authorization dated 29.3.2019 vide bill of entry no.3545221 dated 6.6.2019. It is submitted that the imported tea was blended with Indian tea as per the blend sheets and thereafter the blended tea was exported to China vide shipping bill no.8213724 dated 29.11.2019.

Learned counsel for the petitioner submits that during export, the blend sheets along with the DEEC declaration were submitted to the Customs officers, who had endorsed by an official stamp on those documents accordingly.

It is further submitted that the manufacturing/blending dated 15.11.2019 and 17.12.2019 matches with the export invoice, which had not been taken into consideration by the authority concerned, but passed an order rejecting the prayer in limine without assigning any reason whatsoever, for conversion of the shipping bill nos.86137324 dated 29.11.2019 and 9326743 dated 30.12.2019 from Drawback scheme to Advance Authorization Scheme.

Despite recording in the impugned order, the factum of filing of the written submissions dated 16.1.2026 filed by the petitioner, the same has simply be kept on record, and ignored to consider the same for arriving at a conclusive finding with regard to the issue involved herein.

In support of such contention a judgment of the Customs and Service Tax Appellate Tribunal was placed upon reliance at the time of hearing before the adjudicating authority, but the same was also not taken into consideration despite having a binding effect upon the adjudicating authority.

In this context, learned counsel also places reliance upon a judgment of the Hon'ble Supreme Court in the case of **Union of India vs. Kamlakshi Finance Corporation Ltd. reported in 1992 Supp[1] SCC 443** wherein it has been observed as follows which is reproduced below:

> *"….The order of the Appellate Collector is binding on the Assistant Collectors working within his jurisdiction and the order of the Tribunal is binding upon the Assistant Collectors and the Appellate Collectors who function under the jurisdiction of the Tribunal. The Principles of judicial*

discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities.'

Learned counsel also places reliance upon another judgment of the Division Bench of this Court presided over by Hon'ble Justice Girish Chandra Gupta (as His Lordships then was), in the case of Artee Overseas Pvt,. Ltd. vs. Union of India, reported in 2016[332] ELT 470 [Cal], wherein Their Lordships were pleased to follow the views of a Division Bench judgment of Hon'ble Bombay High Court, which is reproduced below :

'It appears from the record that the petitioner was relying upon the law laid down by the Supreme Court in the case of Government of India v. Madras Rubber Factory Limited reported in 1995 [77] ELT 433 [SC]. That judgment has been referred to in the original order, but perusal of the order passed by the Commissioner [Appeals] shows that the Commissioner [Appeals] has not considered that judgment and has not given any reasons why the case of the petitioner is not covered and how that judgment is distinguishable and without recording such finding, the Commissioner [Appeals] has recorded a finding that the Revenue has very strong case. In our opinion, therefore, the Commissioner [A] has failed to consider material which was relevant for making an order. A quasi judicial authority cannot exclude from its consideration the material which is relevant. If it does so, the order suffers from non-observance of the principles of natural justice.'

Learned counsel appearing for the respondent authorities raises an objection to the maintainability of the writ petition and submits that the impugned order is appealable since efficacious alternative statutory remedy is available to the petitioner for proper redressal of the issue involved herein.

It is further submitted by the respondent authorities that the scope of the writ jurisdiction under Article 226 of the Constitution of India is very limited for invoking the writ jurisdiction. In the present case, there is no such exceptional circumstances under which the present writ petition can be entertained to be heard on merits. Since the appellate authority is the last fact finding authority, the petitioner ought to have filed an appeal instead of approaching this court under Article 226 of the Constitution of India. On this score alone, the writ petition is not maintainable and the same should be dismissed in limine.

Having heard the parties and upon perusing the records made available, this court finds that the petitioner has been able to make out a prima facie case warranting interference at this stage. This court has taken judicial note of all the relevant documents annexed to the writ petition along with the judgments relied upon by the writ petitioner. It is no longer res integra when an order is found to be perverse and non speaking and has been passed without proper application of mind, it goes to the root of the matter to be decided on merits. Hence the present writ petition is maintainable in light of **Whirlpool Corporation vs. Registrar of Trade Marks (1998) 8 SCC 1.**

In the present case since the order suffers from perversity and has been passed without proper application of mind, ignoring the judgment of the appellate authority which bears a binding effect upon the adjudicating authority is not sustainable in the eye of law and is liable to be quashed and set aside.

In view of the above, the writ petition is disposed of on the following grounds :

[i] The order passed by the Principal Commissioner of Customs [Port] dated 11.2.2026 is hereby quashed and set aside since it lacks of propriety and not sustainable in the eye of law;

[ii] The Principal Commissioner of Customs [Port] is directed to re-visit the issue by considering the reply dated 16.1.2026 along with the documents attached to the writ petition at pages 57, 58, 59, 60, 65 and 72 to arrive at a logical and conclusive finding and pass a reasoned and speaking order in accordance with law within eight weeks from the date of communication of this order and by granting an opportunity of personal hearing. Such decision shall be communicated within a week thereafter.

With the above observations and direction the writ petition is disposed of without going into the merits of the case.

However, it is made clear that the Principal Commissioner of Customs [Port] shall not be influenced with the observations made hereinabove and the petitioner shall not pray for unnecessary adjournment. The entire exercise is to be completed by the authority concerned peremptorily on or before 31st December, 2026.

Since affidavits have not been called for, the allegations made in the instant writ petition are deemed to have been denied and not admitted.Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(SMITA DAS DE, J.)

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