OD-5

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/284/2026

SUDIPTA SEN AND ANR
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE SMITA DAS DE
Date : 9th October, 2026.

Appearance:
Ms. Micky Chowdhury, Adv.
Mr. B.N. Pal, Adv.
…for the petitioner

Mr. Uday Sankar Bhattacharya, Adv.
Mr. Tapan Bhanja, Adv.
Mr. Gourab Karmakar, Adv.
…for the Customs Authority

The Court: Pursuant to the Order dated 25th September 2026 Learned Counsel appearing for the Customs authorities was directed to apprise this Court of the specific instructions received from the department along with supporting documents to enable the Court to take an appropriate decision in the matter.

The Learned Counsel appearing for the Customs authorities, submits on the basis of the written instructions received from the department that the offence report and the Order in Original dated 31st March, 2016 have already been set aside by the Commissioner of Appeals on 19th July 2016.

The written instructions handed over by the Learned Counsel for the Customs authorities are kept on record.

Having heard the parties and upon perusing the materials available on record including the instructions, received from the Department, this Court is of the considered view that the Order in Original dated 31st March 2016 has already been set aside. On the basis thereof a Show Cause Notice dated 09.06.2016 was issued. The Committee of Commissioner subsequently recommended that an appeal be filed before the Commissioner of Appeals. However, it appears from the report, submitted by the department that the specific offence had also been set aside by the Commissioner of Appeal in accordance with law.

In view of the above, this Court is of view that since the order in original has already been set aside, by the Commissioner of Appeals, the consequential appeal if any connot be sustained. Consequently, the Show Cause Notice issued on the basis of the said order in original is not maintainable and is also barred by limitation as it was issued beyond the prescribed statutory period. Accordingly the Show Cause Notice dated 9th June, 2016 is hereby quashed and set aside.

With the above observations and directions, the Writ Petition is disposed of without going into the merits of the case.

Urgent Photostat certified copy of this order, if applied for, be furnished expeditiously.

(SMITA DAS DE, J.)

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