OD-6

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/285/2026

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 the Learned Counsel appearing for the Customs authorities was directed to apprise this Court with specific instruction along with the supporting documents for proper adjudication of the issues involved herein.

The Learned Counsel appearing for the Custom authorities submits on the basis of the written instructions received from the Department that the Offence Report and the Order in Original dated 28th December 2005 has already been set aside by the CESTAT in an appeal preferred by the petitioner on 4th November 2024. It also appears from the report that the Order in Original dated 28th December 2005 was set aside by the CESTAT on 23rd February 2010.

A copy of the Order dated 23rd February 2010 has been placed by the Learned Counsel appearing for the petitioner and the written instruction by the Learned Counsel appearing for the Customs Authorities, are kept on record.

Upon perusing such instructions it appears that the Order in Original dated 28th December 2005 has been set aside. Consequently, the impugned Show Cause Notice dated 28th July 2006 which was issued, on the basis of that original order and the subsequent recommendation by the committee of commissioner to file an appeal before the Commissioner of Appeals are redundant. The record indicates that the specific offence report had already been set aside by the Commissioner.

Having heard the parties and upon perusing the materials available on records, this Court has taken the judicial notice of the instructions filed by the Custom authorities. This court is of the considered view, that since the Order in Original and the subsequent appeal thereof have been set aside, the Show Cause Notice issued on the basis of such order in original is entirely unsustainable and is also barred by the statutory period of limitation.

In view of the above, the Show Case Notice dated 28th July 2006 is hereby quashed and set aside.

With the above observations the WPO 285 of 2026 stands 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.)

gb