

OD-4

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/609/2025

ZAKIR KHAN

-VS-

PRINCIPAL COMMISSIONER OF CUSTOMS (PORT) AND ORS.

BEFORE:

The Hon'ble JUSTICE OM NARAYAN RAI

Date: January 8, 2026.

Appearance:

Mr. Abhratosh Majumdar, Sr. Adv.

Mr. Agnibesh Sengupta, Adv.

Mr. Indranil Banerjee, Adv.

Mr. Deepak Gandhi, Adv.

Mr. Subrata Mukherjee, Adv.

...for the petitioner

Mr. Kaushik Dey, Adv.

Mr. Tapan Bhanja, Adv.

...for the respondent/ customs authority

Mrs. Arushi Rathore, Adv.

...for Union of India

The Court: Heard Mr. Majumdar, learned senior advocate
appearing for the petitioner.

Mr. Majumdar submits that the order impugned suffers from
serious jurisdictional and other errors.

As already recorded in the earlier order dated September 9, 2025
passed by this Court, the first point which has been taken by the petitioner
to sustain the challenge to the order impugned is that the proceeding itself
is barred by limitation since the notice to show cause has been issued
beyond the statutory period. It is next urged that the order impugned has
been passed in abject violation of principles of natural justice. Mr.

Majumdar has submitted that despite a specific prayer being made seeking cross-examination of witnesses whose statements have been abundantly relied on by the adjudicating authority while passing the order in original, no opportunity to cross-examine such witnesses has been granted to the petitioner. It is then submitted that despite a circular dated March 10, 2017 mandating that at least three opportunities of personal hearing should be granted, the petitioner has been granted only one effective opportunity of hearing.

It is further submitted that the petitioner had filed two replies to the notice to show cause and the second of the two replies has evidently not been considered by the adjudicating authority while passing the order in original.

The next ground urged in support of the contention that the order in original has been passed in derogation of the principles of natural justice is that various documents that have been relied upon by the adjudicating authority were not supplied to the petitioner despite the petitioner having asked for the same.

The last limb of the submission of Mr. Majumdar is that although the petitioner was served with a show cause notice indicating the charges levelled against him (to which the petitioner had replied), the adjudicating authority while passing the order in original has taken into consideration charges levelled against other persons in a different show cause notice. It is submitted that the petitioner has thus condemned unheard of charges mentioned in a different show cause notice.

Mr. Dey, learned advocate appearing for the respondent / customs authority submits that he has sufficiently sound answers to all the points raised by Mr. Majumdar but he should be afforded an opportunity to use affidavit-in-opposition to the writ petition first.

In such view of the matter, let affidavit-in-opposition to this writ petition be filed within three weeks from date. Affidavit-in-reply thereto, if any, be filed within 10 days thereafter.

List this matter for further consideration under the same heading immediately after expiry of time for exchange of affidavits.

It is noticed that till date no action in furtherance of the order impugned has been taken by the respondent / customs authority.

In such view of the matter, the question of grant of interim relief is not decided at the present stage. The petitioner shall, however, have liberty to pray for interim orders in case occasion so arises.

(OM NARAYAN RAI, J.)