

THE HIGH COURT OF SINDH KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry
Mr. Justice Muhammad Jaffer Raza

C.P. No. D – 5902 of 2025

[M/s. Hooraa Pharma (Pvt) Ltd. versus Pakistan & others]

Petitioner : M/s. Hooraa Pharma (Pvt) Ltd through Dr. Farogh Naseem, Advocate.

Respondents 1-3 : Pakistan through Secretary Ministry of Finance, Government of Pakistan and two others through Ms. Mehreen Ebrahim, Deputy Attorney General for Pakistan.

Respondents 4-7 : The Assistant Collector of Customs (SAPT) and three others Mr. Muhammad Zakir, Advocate [holds brief for] Mr. Agha Shahid Majeed Khan, Advocate along with Mr. Arsalan Assistant Collector of Customs (SAPT), Karachi.

Respondent 9 : CMA CGM Pakistan Pvt. Ltd., through Mr. Feroz Ahmed, Advocate [holds brief for] Mr. Agha Zafar Ahmed, Advocate.

Respondents 8 & 10 : Nemo.

Date of hearing : 15-12-2025

Date of order : 24-12-2025

JUDGMENT

Adnan Iqbal Chaudhry J. - The Petitioner is an importer and distributor of 'sutures', which is a thread used to stitch a wound or surgical incision and is accompanied by a needle. Events leading to the petition are as follows. In 2024, the Petitioner classified and cleared sutures under PCT¹ 9938, which is in respect of "*disposables, as are not manufactured locally*" for specified medical/surgical procedures and specified medical equipment/products. Goods under PCT 9938

¹ Pakistan Customs Tariff.

were charged with 0% customs duty and were also exempt from sales tax by virtue of Entry No. 112 of Table-1 of the Sixth Schedule to the Sales Tax Act, 1990. In December 2024, the DG I&I² placed a hold on sutures imported by the Petitioner on the premise that suture was expressly covered under PCT 3006.1090, which goods were not exempt from sales tax. While those consignments were provisionally released when the Petitioner secured the disputed sales tax, the issue taken by the DG I&I to the classification of sutures under PCT 9938 remained pending.

2. Since classification of sutures as '*disposables*' under PCT 9938 had come under issue, the subject consignment of sutures imported *vide* GD³ No. KAPS-HC-20303 dated 01.08.2025 [**subject GD**], was classified by the Petitioner under PCT 3006.1090, which expressly included suture. Customs duty on goods under PCT 3006.1090 is also 0%, but the goods are not exempt from sales tax. However, the Petitioner claimed the reduced rate of 1% under Entry No. 81 of Table-1 of the Eighth Schedule to the Sales Tax Act since that Entry applied to "*Substances registered as drugs under the Drugs Act, 1976*" and section 3(g)(ii) of the Drugs Act defines 'drug' to include suture. However, by assessment dated 27.08.2025 passed under section 80 of the Customs Act, 1969, the assessing officer took the view that the clearance certificate issued by the DRAP⁴ for importing sutures had classified it as a 'medical device' under the Medical Devices Rules, 2017, not as a 'drug' under the Drugs Act, 1976, therefore Entry No. 81 was not applicable to sutures. To challenge that assessment, the Petitioner filed C.P. No. D-4353/2025 before this Court. That petition was dismissed by judgment dated 22.09.2025 and the assessment dated 27.08.2025 made on the subject GD was maintained. It was observed by this Court:

"8. Customs duty, both on goods classified as '*disposables*' under PCT 9938 and on goods otherwise classified under PCT 3006.1090, is

² Directorate of Intelligence & Investigation-Customs.

³ Goods Declaration.

⁴ Drug Regulatory Authority of Pakistan.

presently 0%. Therefore, for the purposes of customs duty at least, it does not matter whether sutures can be described as 'disposables' or not. As we understand, the Petitioner nonetheless seeks such determination to see if it can claim an exemption from sales tax entirely under Entry No. 112 of Table-1 of the Sixth Schedule to the Sales Tax Act which seems to apply to 'disposables' imported under PCT 9938. However, in given circumstances we are not inclined to embark on such a determination when sutures in the subject GD dated 01.08.2025 were not classified by the Petitioner itself under PCT 9938 but under PCT 3006.1090, and upon which an assessment order under section 80 of the Customs Act has already been passed. Admittedly, the applicability of PCT 9938 to sutures is subject matter of other proceedings pending, including C.P. No. D-3915/2025, and therefore any observation by us here may unnecessarily interfere with those proceedings. Even if the Petitioner was constrained by previous events to classify the present import under PCT 3006.1090 instead of PCT 9938 as submitted by the Petitioner's counsel, we are of the view that it had nonetheless elected to do so."

3. After the Petitioner was unsuccessful against the assessment dated 27-08-2025, it made applications dated 07-11-2025 and 21-11-2025 to the Customs for amending the subject GD to classify sutures under PCT 9938 to claim a complete exemption from sales tax under Entry No.112 of Table-I of the Sixth Schedule to the Sales Tax Act, with the further prayer that till such time the issue of classification is decided, the goods be released provisionally under section 81 of the Customs Act. Upon such applications, the GD was reopened in the system, however, by assessment order dated 03-12-2025 **[impugned assessment]**, the Assistant Collector of Customs was not inclined to disturb the earlier assessment dated 27-08-2025. Against the assessment order dated 03.12.2025, the Petitioner filed appeal before the Collector (Appeals) under section 193 of the Customs Act, and has simultaneously challenged the same order by this petition.

4. At the hearing, learned counsel for the Petitioner pressed the petition for provisional release of goods upon securing the amount of the sales tax till such time the Collector (Appeals) decides the Petitioner's appeal against the assessment order dated 03.12.2025. He submitted that such order was passed oblivious to the Petitioner's application for amending the GD. On the other hand, learned counsel

for the Customs submitted that the GD could not be amended in view of the bar in section 29 of the Customs Act.

5. It is correct that the impugned assessment order dated 03.12.2025 maintains the earlier assessment dated 27.08.2025 without discussing the Petitioner's request for amendment in the GD. But then, even taking that as an order declining the amendment, section 193 of the Customs Act does not seem to provide an appeal from such an order. Therefore, the prayer for provisional release of goods on the premise that an appeal is pending, appears to be misplaced here.

6. The relevant provisions in the Customs Act and Customs Rules, 2001 dealing with amendment in the GD are:

"Section 29. Restriction on amendment of goods declaration.- Except as provided in section 88, no amendment of goods declaration relating to goods assessed for duty on the declared value, quantity or description thereof shall be allowed after such goods have been removed from the customs-area or assigned a Customs Reference Number electronically, as the case may be.

Section 205. Amendment of documents.- Except in the case provided for by sections 29, 45, 53 and 88, an officer of customs not below the rank of an Assistant Collector of Customs may, in his discretion, upon payment of a fee of one hundred rupees, authorise any document, after it has been presented at the custom house to be amended.

Rule 434. Amendments to imports declaration.- (1) No declaration made under rule 433 shall be amended after the customs has started checking the declaration:

Provided that such declaration may be cancelled where-

- (i) the goods have not arrived at the declared terminal on which CCS is operational;
- (ii) clearance of goods or class of goods has explicitly been excluded from the purview of CCS ;
- (iii) in other cases where the Additional Collector of Customs is satisfied that the circumstances warrant cancellation of goods declaration.

2. Where a goods declaration is cancelled, as laid down in clause (i) to (iii) of sub-rule (1), all duty and taxes paid against the goods declaration may be adjusted, against the subsequent goods declaration filed for clearance of the same goods, subject to appropriate changes in the Customs Computerized System."

7. While goods of the subject GD are still within the customs area, that GD had been assessed for home consumption under section 80 of

the Customs Act as far back as 27.08.2025. Thereafter, the Petitioner had to contend with that assessment order, which it did by way of C.P. No. D-4353/2025 but remained unsuccessful. In other words, the subject GD was far beyond the stage of amendment envisaged in section 29 of the Customs Act read with Rule 434(1) of the Customs Rules. Section 205 of the Customs Act is not attracted here as the discretion of the Assistant Collector of Customs thereunder to allow amendment in documents, is excluded by the provision itself where section 29 is applicable.

8. Learned counsel for Petitioner had laid emphasis on proviso (iii) to Rule 434(1) of the Customs Rules to submit that the Additional Collector of Customs is nonetheless empowered to allow amendment in a GD at any point. However, the provisos to Rule 434(1) read with sub-Rule (2) do not deal with amendment of a GD, rather envisage cancellation of a GD where a fresh GD is necessitated by circumstances beyond the control of the importer. That is why proviso (iii) to Rule 434(1) vests discretionary powers in the Additional Collector of Customs for permitting cancellation of a GD for filing a fresh GD. Having said that, we do not see how the Petitioner's case warrants the exercise of such discretion.

9. As narrated above, in filing the subject GD for clearing sutures, the Petitioner had consciously classified the goods under PCT 3006.1090 as the previous classification under PCT 9938 was under issue with the DG I&I. Admittedly, that issue remains unresolved, and the Petitioner does not expect the goods to be cleared by the Customs under PCT 9938. It is therefore apparent that the Petitioner's application for amending the subject GD to classify the goods back under PCT 9938, is solely to argue for the provisional release of goods. In our view, that is not the purpose of section 29 of the Customs Act or Rule 434 of the Customs Rules. The case of *Gatron Industries Limited v. Government of Pakistan* (1999 SCMR 1072) is of no help to the Petitioner.

10. For the foregoing reasons, we agree with learned counsel for the Customs that the Petitioner’s applications dated 07-11-2025 and 21-11-2025 for amending the subject GD are barred by section 29 of the Customs Act, 1969 and Rule 434 of the Customs Rules, 2001. The petition is therefore dismissed.

JUDGE

JUDGE

Karachi:
Dated: 24-12-2025

**SHUIBAN/SADAM*