

THE HIGH COURT OF SINDH KARACHI

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

Constitution Petition No. D – 4483 of 2025
(Muhammad Yousuf v/s Federation of Pakistan & others)

Petitioner : Muhammad Yousuf, through M/s
Ghulam Hyder Shaikh and Manzar
Hussain Memon, Advocates.

Respondent 1 : Nemo.

Respondents 2-3 : Collector of Customs (Keamari) and
another through Sardar Zafar Hussain,
Advocate, a/w Tariq Aziz, Assistant
Collector.

Date of hearing : 24.09.2025

Date of decision : 24.09.2025

ORDER

Adnan Iqbal Chaudhry J. - The Petitioner entered G.D. No.KAPS-IB-206738 dated 24.06.2025 under section 79 of the Customs Act, 1969 [Act] for warehousing imported goods declared as “*Polyester Knitted Pile Fabric*”. Upon examination of the goods under section 80 of the Act, a contravention of the Act was detected by the Customs, leading to Order-in-Original dated 02.09.2025, whereby the Petitioner was held liable for misdeclaration and the goods were ordered to be confiscated albeit the Petitioner was given the option under section 181 of the Act to pay fine in lieu of confiscation. Against those orders, the Petitioner has preferred Customs Appeal No. K-1317/2025 before the Customs Appellate Tribunal.

Before us, the grievance of the Petitioner is that while said appeals are pending before the Customs Appellate Tribunal, the Collector of Customs has withheld orders on the Petitioner’s application under section 84 of the Act for moving the goods to a bonded warehouse, and as a result the Petitioner is incurring demurrage charges day-to-day. On the other hand, counsel for the

Customs submits that since orders for confiscating the goods have not been suspended by the Tribunal, the goods cannot be moved into bond until the Petitioner redeems the goods by paying duty, taxes, fine and penalty determined as per the Orders-in-Original.

Heard learned counsel. A similar matter has already been decided by us by order dated 25.08.2025 in CP Nos. D-4131/2025 and D-4132/2025 (M/s. Amal Steel vs. Federation of Pakistan and others) in following terms:

“Heard learned counsel. While the order of confiscation of subject goods is in appeal, counsel for the Customs has not cited any provision of the Act that requires the importer to pay the fine in lieu of confiscation of goods (under section 181 of the Act) before moving the goods to a bonded warehouse pursuant to section 84 of the Act. Rather, section 104 of the Act suggests that all charges payable in respect of goods can be paid within the time fixed for warehousing by section 98 of the Act. Needless to state that moving the goods to a bonded warehouse would not amount to delivery to the Petitioner, rather it is intended to mitigate demurrage charges being incurred by the Petitioner at the port.

In view of the foregoing, we dispose of these petitions by directing the Respondent to process forthwith the Petitioner’s application under section 84 of the Act for moving the subject goods (mentioned first above) into bond in line with section 86 of the Act. Office shall place a copy of this order in the connected petition.”

Confronted with the above, Mr. Sardar Zafar Hussain Advocate and Tariq Aziz Assistant Collector submit that the Customs is ready to shift the goods to the CPF. On the other hand, learned counsel for petitioner submits that the CPF is inadequate as it is without a shade and the subject goods being fabric are likely to be damaged if stored at the CPF.

Agreeing with the petitioner, we allow the petition in same terms as order dated 25.08.2025 in CP Nos.4131/2025 and D-4132/2025 reproduced above.

JUDGE

JUDGE