

THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Yousuf Ali Sayeed

Mr. Justice Adnan Iqbal Chaudhry

C.P. No. D - 5182 of 2026

[M/s. Gerry's Dnata v. FOP and others]

Petitioner : M/s. Gerry's Dnata through M/s. Daniyal Muzaffar, Bushra Zaheer and Mamuna Nasreen, Advocates.

Respondents 1-3 : Federation of Pakistan and others through Ms. Mehreen Ebrahim, DAG.

Respondent 4-5 : Collector of Customs, Airports and another through Mr. Khalilullah Jakhro, Advocate.

Date of hearing : 31-08-2026

Date of decision : 31-08-2026

ORDER

Adnan Iqbal Chaudhry J.— Grievance of the Petitioner is that while its appeal under section 194A of the Customs Act, 1969 [Act] against Order-in-Original [OnO] dated 01-04-2026 has yet to be decided by the Customs Appellate Tribunal, the Tribunal has dismissed the Petitioner's stay application *vide* order dated 20-07-2026 read with order dated 25-05-2026, thereby exposing the Petitioner to coercive process of recovery under notice dated 24-04-2026. Learned counsel for the Petitioner submits that the Petitioner is entitled to a decision from the Tribunal before the impugned penalty can be recovered.

The Petitioner is a cargo handling agent at the airport. As per the OnO, the Petitioner and the importer of goods acting in concert, attempted to remove imported goods out of the Petitioner's shed without paying customs duties and taxes. The attempt was, however, thwarted by the Customs and loss to the exchequer was avoided. Nevertheless, the Collector (Adjudication) was of the view that the offence of smuggling, as defined in section 2(s) of the Act, had been

committed, and therefore imposed the maximum penalty of Rs. 515,025,955/- equal to five times the value of the goods under clause 8(i)(e) of section 156(1) of the Act.

Presently, the Petitioner is in appeal before the Tribunal, both from findings of fact arrived in the OnO and from the quantum of penalty imposed. The Petitioner has also questioned the applicability of clause 8(i)(e) of section 156(1) of the Act in the facts of the case. In our view, the questions raised in appeal *prima facie* require consideration. Therefore, we allow the petition in terms that until the Tribunal takes a decision on the Petitioner's Customs Appeal No. 565/2026, officers of Customs are restrained from recovering the impugned penalty from the Petitioner pursuant to notice dated 24-06-2026.

JUDGE

JUDGE

SHABAN*