

## THE HIGH COURT OF SINDH, KARACHI

### Present:

Mr. Justice Adnan Iqbal Chaudhry

Mr. Justice Muhammad Jaffer Raza

C.P. No. D-4563 of 2025 : Muhammad Kazim versus Federation of Pakistan & others.

For Petitioner : Mr. Imtiaz Ali Shah, Advocate.

For Respondent No. 1 : Ms. Mehreen Ibrahim, Deputy Attorney General for Pakistan.

For Respondents 2&4 : Mr. Khalid Mehmood Rajpar, Advocate.

For Respondent No. 3 : Nemo.

Date of hearing : 29-10-2025

Date of order : 29-10-2025

### ORDER

Adnan Iqbal Chaudhry, J. - Learned counsel for the Petitioner confines the petition to an order for release of the subject consignment.

The facts are that upon a contravention report alleging mis-declaration under section 32 of the Customs Act, 1969 in the filing of a GD, a show-cause notice was issued to the Petitioner. Vide Order-in-Original dated 07.07.2025, passed by the Collector Adjudication, it was held that since the Petitioner had classified goods as per past practice, there was no intention to mis-declare the goods; therefore, apart from applicable duty and taxes, the offending goods were ordered to be released on payment of redemption fine in terms of section 181 of the Act along with a penalty.

The Petitioner did not challenge the Order-in-Original. However, the department has filed an appeal before the Customs Appellate Tribunal, contending that the Collector Adjudication erred in adjudging that there was no offence of mis-declaration and fiscal fraud under sections 32 and 32A of the Act. While that appeal is

pending without any stay order, the Customs has placed a hold on subject goods.

Learned counsel for the Petitioner files documents to show that the Petitioner has paid the redemption fine and penalty adjudged by the Order-in-Original and submits that there is no legal basis to hold the goods. Learned counsel for the Customs places reliance on an FIR lodged by the department against the Petitioner for the offence of mis-declaration and fiscal fraud, however, he accepts that the Special Judge Customs seized of the FIR and has not passed any order to detain the goods. There does not appear to be any issue to the importability of the goods and therefore no legal basis to place a hold over the goods. Needless to state that if the department succeeds in appeal, it can affect recovery of the amount adjudged in appeal by invoking provisions of the Act available for such purpose.

Therefore, the petition is allowed by directing that if fine and penalty adjudged by the Order-in-Original dated 07.07.2025 has been paid by the Petitioner, the Respondents shall release goods subject matter of G.D. No. KAPW-HC-158402 dated 05.04.2025 to the Petitioner.

JUDGE

JUDGE

\*PS/SADAM