

**IN THE HIGH COURT OF SINDH AT KARACHI**

**C.P. Nos.D-1549 of 2014 a/w C.P. Nos. D-1550,  
1610,1611 of 2014 & 3439 of 2013.**

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE.</b>
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Presents:

*Mr. Justice Aqeel Ahmed Abbasi  
Mr. Justice Arshad Hussain Khan*

Hearing/Priority.

1. For hearing of Misc No.7326/2014.
2. For hearing of main case.

31.03.2017.

Mr. Muhammad Kaukab Sabahuddin, Advocate for the Petitioner.  
Mr. Kashif Nazeer, Advocate for respondent.  
Mr. Mir Hussain, Assistant Attorney General.

**ORDER**

**Aqeel Ahmed Abbasi, J:** Since common relief has been sought in these petitions, therefore, above petitions are being decided through this common order. The petitioners have expressed their grievance against the issuance of Notices under Section 26(1) of the Customs Act, 1969, by the officials of Directorate Intelligence & Investigation, to the bank(s) of the petitioner(s), through which, according to the learned counsel for the petitioners, respondents have attempted to collect the documents pertaining to exports made by petitioner(s) and to take adverse action against the petitioner(s), for alleged violation(s) of Foreign Exchange Regulations Act, 1947, and not for violating the provisions of Customs Act, 1969. Per learned counsel, such authority is not vested in the customs authorities who can take cognizance in respect of violation of any provision of Customs Act, 1969 and cannot inquire into the matter pertaining to export documents submitted before the Bank by the petitioner(s).

2. Learned counsel for the petitioner(s) was confronted as to the maintainability of instant petitions, which have been filed on mere issuance of Notices under Section 26(1) of the Customs Act, 1969, which prima-facie authorizes a Customs Officer, not below the rank of Collector, to call any information relating to importation, exportation, purchase, sales, transportation,

storage or handling of any goods imported or exported and to produce for examination, documents or records that, the appropriate officer considers necessary or relevant to the audit, inquiry or investigation under the Act. In response to which, learned counsel for the petitioners submits that though such authority is vested under the Customs Act, 1969, in respect of violation of Customs law only, whereas, in case of any alleged violation of Foreign Exchange Regulations Act, 1947, such authority is vested in the State Bank of Pakistan and an action can only be taken in terms of Section 23(b) of the Act, by State Bank of Pakistan, and not by the customs authorities. It has been contended by the learned counsel for the petitioners that the petitioners will be satisfied and will not press instant petitions provided, respondents may be directed to ensure that unless, there is any violation of the provisions of Customs Act, 1969, the respondents shall not take any adverse action against the petitioners in respect of any alleged violation of Foreign Exchange Regulations Act, 1947. It has been further submitted by the learned counsel that in case the respondents are in possession of any incriminating material, which may require an action under the Customs Act, 1969, the petitioners may be confronted with such material, and only after providing opportunity of being heard, further action, if any, may be taken by the respondents, however, strictly in accordance with law.

3. Learned counsel for the respondents does not oppose disposal of the instant petitions in the aforesaid terms however, submits that under the Customs Act, an officer of customs is empowered not only to implement the provisions of Customs Act, but under certain circumstances, such authority can also be exercised pursuant to provisions of any other Act and Regulations which may authorize the Customs Authorities to act on behalf of any other authority and to take action in case of any violation of the Customs Act as well as for violation of provisions of any other law, rules or regulation as the case may be. However, learned counsel for the

respondent could not refer to any such provision of law in support of his contention.

4. We have heard the learned counsel for the parties and perused the relevant provisions of the Customs Act, 1969 as well as the provisions of the Foreign Exchange Regulations Act, 1947. Since both the learned counsel for the petitioners have expressed their willingness for disposal of the instant petitions in the aforesaid terms, we would dispose of these petitions by consent, with the directions to the respondents to ensure that before taking any adverse action against the petitioner(s), respondents shall confront the petitioners with the relevant provisions of the Customs Act, as well as the provisions of any other law, including, Foreign Exchange Regulations Act, 1947 provided such authority is vested in the Customs Authorities as per law, whereas, complete opportunity of being heard shall be provided to the petitioners. It is further clarified that unless petitioner(s) are specifically confronted with the violation of the Customs Act, or any other law, which may authorize the Customs Authorities to take action in accordance with law, petitioners may not be harassed and no adverse action may be taken against the petitioners.

Petitions stand disposed of in the aforesaid terms alongwith listed application.

JUDGE

JUDGE